

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) Nos. 342 of 2017 & 797 of 2016

IN THE MATTER OF:-

Shantha Sinha & Another

.... Petitioners

Versus

Union of India and Another

... Respondents

AND

S.G. Vombatkare & Anr.

... Petitioners

Versus

Union of India and Another

... Respondents

**COMMON COUNTER AFFIDAVIT ON BEHALF OF
RESPONDENTS**

ADVOCATE ON BEHALF OF RESPONDENTS: ZOHEB HOSSAIN

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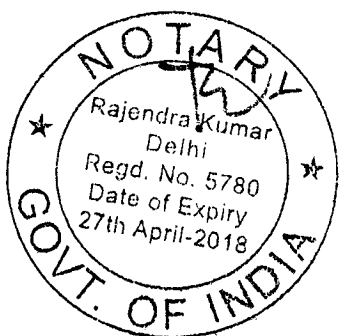
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... Respondents

**COMMON COUNTER AFFIDAVIT ON BEHALF OF
RESPONDENTS**

I, Rajendra Prasad Pant, son of Late Sh. C. B. Pant aged about 53 years, occupation Assistant Director General, residing at UIDAI Headquarters, Jeevan Bharati Building, New Delhi, do hereby solemnly affirm and say as follows:

1. That I am working as the Assistant Director General of Unique Identification Authority of India, the Respondent No. 2 in the present Writ Petition. I am conversant with the facts and circumstances of the present case and I am duly authorised by respondent Nos. 1 and 2 to affirm this affidavit



on behalf of both the respondents in the present Writ Petition and as such I am competent to do swear the present Affidavit on behalf of Respondent Nos. 1 and 2.

2. That I have perused the copy of the writ petition in the captioned matter and have fully understood the contents thereof. At the outset, I deny all the averments, submissions, statements and allegations made therein except those that are specifically admitted hereinafter to be true and correct. The contents of the captioned matter to the extent they are inconsistent with the submissions made hereinafter in this affidavit are incorrect and are denied. Unless any averment or contention is specifically admitted or traversed, the same may be treated as denied.

3. PRELIMINARY SUBMISSIONS:

- a. At the outset, it is pertinent to state that this Hon'ble Court vide its order dated 09.05.2017 has referred the instant matter, i.e. W.P. (C) No. 342 of 2017 to be tagged along with W.P(C) No. 494 of 2012 and other connected matters which have already been referred to a larger bench.

[A Copy of the Order dated 09.05.2017 passed by this Hon'ble Court in W.P. (C) No. 342 of 2017 is marked and attached as **Annexure R- 1** at Pages ⁴⁷⁻⁴⁸ to 48].

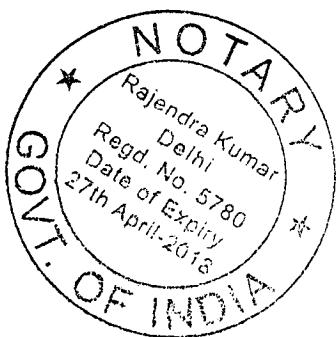
- b. It is also pertinent to note that the other writ petition being W.P. (C) No. 797 of 2016 has also challenged the constitutional validity of the Aadhaar (Targeted Delivery



Of Financial And Other Subsidies, Benefits And Services) Act, 2016 (hereinafter referred to as the "Aadhaar Act 2016") on identical grounds in which Rule was issued on 28.10.2016 and the Court was pleased to tag the matter with WP (C) No. 494/2012 and connected matters thereby referring the adjudication of the cases to be made by a larger bench of the Hon'ble Supreme Court along with matters pending before the Constitution Bench. It is also pertinent to state that the interim relief sought by the Petitioners therein for stay of the provisions of the Aadhaar Act 2016 was not granted. By way of another I.A., W.P. (C) No. 797 of 2016 has also sought for the same interim reliefs *qua* the notifications issued pursuant to the Aadhaar Act 2016.

[A Copy of the Order dated 28.10.2016 passed by this Hon'ble Court in W.P.(C) No. 797/2016 is marked as **Annexure R-2 at Pages 49 to**].

c. A 3 Judge Bench of this Hon'ble Court in the writ petitions, which had challenged the Aadhaar Scheme i.e. W.P.(C) 494 of 2012 & connected cases; *vide* order dated 11.08.2015, in light of the "apparent unresolved contradiction in the law declared by this Court" had referred the matters to a larger bench to authoritatively decide "the jurisprudential correctness of the subsequent decisions of this Court where the right to privacy is either asserted or referred." While referring



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the above cases to the larger bench, this Hon'ble Court made some observations in its order dated 11.08.2015 which are of moment and state as follows:

"At the same time, we are also of the opinion that the institutional integrity and judicial discipline require that pronouncement made by larger Benches of this Court cannot be ignored by the smaller Benches without appropriately explaining the reasons for not following the pronouncements made by such larger Benches. With due respect to all the learned Judges who rendered the subsequent judgments - where right to privacy is asserted or referred to their Lordships concern for the liberty of human beings, we are of the humble opinion that there appears to be certain amount of apparent unresolved contradiction in the law declared by this Court."

- d. It is humbly submitted that even when the Union of India had earlier preferred an Application for Modification/Clarification of certain directions in the Interim Order dated 11.08.2015 in Writ Petition (C) 494 of 2012 and connected cases, this Hon'ble Court was of the view that since the matter had already been referred to a larger bench, only a Constitution Bench could consider the applications for modification by the Union of India and pass suitable orders. It was in these circumstances that the order dated 15th October 2015 came to be passed by a 5-judge bench which was constituted for this reason after the matter was referred to a larger bench on 11th August



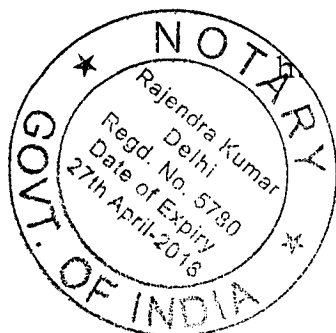
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2015. Judicial discipline demands that this precedent be followed and the present Applications for interim relief be considered only by a 5 Judge Constitution Bench.

[A Copy of the Union of India's Application for Modification/Clarification of Interim Order dated 11.08.2015 is marked as **Annexure R-3** - 50-74 at Pages to].

- e. It is also pertinent to note that Section 7 of the Aadhaar Act, 2016 is an enabling provision and allows the Central Government/State Government to require Aadhaar for delivery of benefits and services and until Aadhaar is not assigned, alternate means of identification is accepted in terms of the respective Notifications.
- f. Moreover, the fact that no stay of the impugned Act was granted is consistent with the well settled position that stay of statutes should not ordinarily be granted unless there is a gross illegality. There was no gross illegality found by coordinate Benches of this Court which refused to grant any interim stay of the Act and therefore, the present Applications seeking interim relief should also be rejected.
- g. Likewise, various notifications passed by the Central Government pursuant to the enabling provision of Section 7 of the Aadhaar Act of 2016 has also been challenged in the present writ petitions by way of Interlocutory Applications.

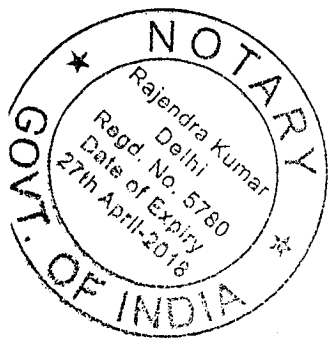
It is humbly submitted that when substantially identical matters are pending consideration before the larger bench and when the present case has also been referred to the larger bench, judicial discipline and propriety demands that



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any application for interim relief in the present case should also be considered by the larger bench especially in light of the fact that any interim relief in favour of the Petitioners will have widespread impact on public interest.

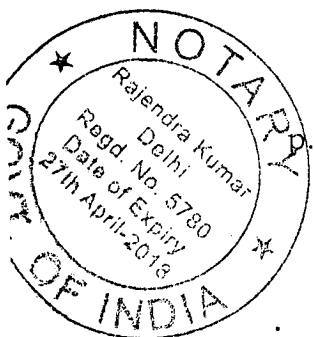
- i. It is further submitted that after a case has been referred to a larger bench by a bench of 2 Judges, the smaller bench, for all practical purposes becomes *functus officio* and can no longer consider any Applications for interim relief.
- j. It is also important to note that a similar prayer for early listing was made and interim reliefs were sought for stay of the provisions of the Aadhaar Act, 2016 were sought for before the Hon'ble Chief Justice of India on 05.01.2017 which was declined by the Court. [A Copy of this Hon'ble Court's order dated 05.01.2017 in W.P. (C) 494 of 2012 and connected cases is marked as **Annexure R -4** at Pages ⁷⁵ to ⁷⁶)
- k. It is also important to state that the interim orders relied upon by the Petitioners passed in W.P.(C) 494 of 2012 & connected cases were binding on the parties in the litigation, one of which was the Union of India in exercise of its executive power to frame the Aadhaar scheme. This exercise of executive power by the Union of India cannot be conflated with the Parliament to say that the latter cannot now enact legislation on the issue because of certain interim orders that injunct the exercise of executive powers. This would be contrary to the well-settled proposition that there can be no injunction against Parliament enacting a statute. Thus the governing law holding the field from 23.09.2013 i.e. date of



first interim order in W.P.(C) 494 of 2012 & connected cases, up to 11.09.2016 (i.e. the date immediately prior to relevant provisions of the Aadhaar Act, 2016 coming into force) were the interim orders of this Hon'ble Court. However from 12.09.2016 (i.e. the date of coming into force of the Aadhaar Act, 2016), it is the Aadhaar Act, 2016 which governs the field. The notifications sought to be challenged in the present petitions have been issued pursuant to the Aadhaar Act, 2016, in accordance with the law which holds the field.

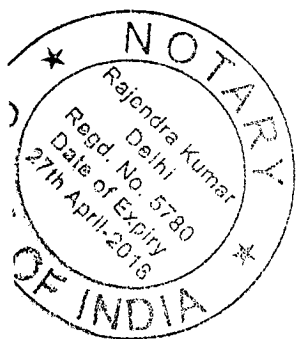
- l. In any event, the primary challenge in the writ petitions in W.P.(C) 494 of 2012 & connected cases was that the Aadhaar Scheme lacked statutory basis and that such a scheme affected the fundamental right to privacy of individuals. The passage of the Aadhaar Act, 2016 has cured both these underlying bases for the interim orders, which were passed prior to the passage of the Aadhaar Act, 2016.
- m. A list of pending cases on Aadhaar over similar issues before this Hon'ble Court is marked as **Annexure R - 5** at Pg to 77+78)
- n. Moreover, the petitioner has also failed to demonstrate any breach of fundamental right which warrants exercise of extraordinary writ jurisdiction of this Hon'ble Court and the constitutionality of a provision cannot be tested on a mere apprehension of the petitioner of a possibility of abuse.
- o. It is also pertinent to state that the present writ petition canvassing itself as a Public Interest Litigation is misconceived and lacks representative character.

It is humbly submitted that **115.15 Crore** residents of India have so far already voluntarily enrolled and allocated Aadhaar



number, which is equal to approx. **95.10** % of the entire population. It is therefore submitted that the Petitioners have no *locus standi* to question the *vires* of this Scheme, which is intended to benefit almost the entire population of India.

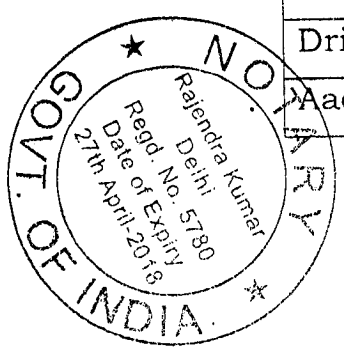
- q. The Aadhaar Number issued to the residents under the Aadhaar Act, 2016 enforces the right to identity and is instrumental in fulfillment of several fundamental rights of the teeming masses in this country flowing from Article 21 viz. the right to food, the right to livelihood etc.
- r. Therefore, almost the entire population having been covered by Aadhaar, the Petitioner's apprehensions of so called "large scale exclusion" of people from government subsidies or benefits due to lack of Aadhaar card is misplaced, self-contradictory and unfounded.
- s. Even otherwise, as per Section 7 of The Aadhaar (Targeted Delivery Of Financial And Other Subsidies, Benefits And Services) Act, 2016 (hereinafter referred to as the Act of 2016) if a person does not have an Aadhaar number assigned to him or her, they are required to enroll for Aadhaar and until Aadhaar number is assigned they are not being denied benefits, rather alternate and viable means of identity proof is accepted like Voter ID, Ration Card, Passport, Driving License, etc.
- t. The Petitioners have incorrectly claimed in Para 39 and 40 that as per the notifications under Section 7 of the Aadhaar Act 2016, people will be denied benefits if they do not enroll for Aadhaar by 30th June 2017 and therefore people will suffer hardships in order to justify the urgent hearing of this



case by this Court during vacations. It is pertinent to note that the notifications though require people to enroll for Aadhaar by 30th June, 2017, it is provided in the notifications itself that if people are not able to enroll for Aadhaar before 30th June due to lack of enrolment facilities in the nearby areas, then they can register their request for Aadhaar enrolment before the appropriate authorities giving their contact details so that as and when enrolment facilities are set up in the area, such persons can be enrolled for Aadhaar and for such people benefits will continue to be given through alternate means of identification even if they have not enrolled for Aadhaar before 30th June, 2017. The notifications thus ensure that no genuine person is denied of any benefits because of lack of Aadhaar. Therefore, petitioners' contentions of urgency in this matter is incorrect and unfounded.

u. Further, it is humbly submitted that the Aadhaar card/number is the most widely held form of identity document with the widest coverage amongst the residents/citizens. This is evident from the following chart:

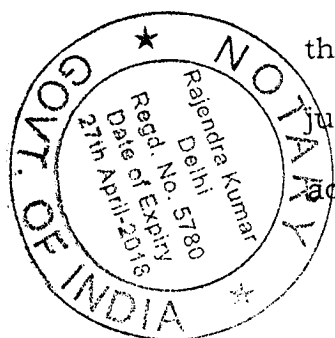
Identity Document	Coverage
Passport	6.9 Cr.
Pan Card	29 Crore (Approx.)
EPIC Card	60 Crore (Approx.)
Ration Card .	15.17 Crore (Approx.)
Driving License	17.37 Crore (Approx)
Aadhaar	115.15 Crore



Therefore, the possibility of exclusion on account of not having Aadhaar is far less than not having any other identity proof. Rather, given that the Aadhaar number/ card is the most widely held identity document, the present petitioner's prayers would cause serious hardship to such residents, for many of whom it is the only identity proof that they possess or those like the old and infirm who are dependent on the conveniences which Aadhaar provides like direct benefit transfers etc.

- v. It is also humbly submitted that the right to identity and consequential rights to receive food subsidy, LPG, Kerosene and a host of other benefits and subsidies from the Government by the vast majority of India's population cannot be impinged upon by a handful of Petitioners whose rights are in no way affected since they may not have even enrolled themselves for the Aadhaar number. This is a classic case where crores of individuals who have enrolled for the Aadhaar number have not complained of violation of any fundamental right, while a handful of individuals who are not aggrieved by the Act are questioning its *vires* and consequently, the benefits it seeks to make available to the poorer and weaker sections of society.

- w. The present writ petitions are based on hypothetical and rather phantasmagorical issues devoid of any basis in reality ignoring material facts. For instance, the writ petition fails to consider that the Total recorded Savings to the Government of India from just one scheme viz. the Direct Benefit Transfer Scheme on account of AADHAAR has been **Rs. 49,560 Cr.** in just two years

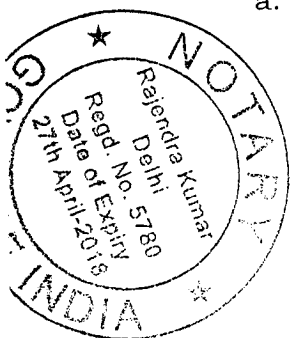


i.e. **2014-15 & 2015-16**. Therefore, there is a clear public interest in ensuring that the various benefits, subsidies and services being offered by the State should reach the intended beneficiary and not to fakes and duplicates, which proliferate in the system leading to loss of crores of rupees of public money. The uniqueness of Aadhaar helps in elimination of duplicates and fakes from any beneficiary database leading to immense savings through reduction of leakages and wastages.

- x. Several other authorities like the Passport Authority, Road Transport authorities while issuing Driving License or Property Registration Officer require biometrics including fingerprints for issuing relevant documents for verification of identity and this is not the first instance where citizens, in order to avail of certain services, allow verification based on bio-metric information. For instance, Section 32A of the Registration Act mandatorily requires photograph and fingerprints of each buyer and seller where the document relates to transfer of ownership of immovable property.
- y. Moreover, the Aadhaar Act, 2016 is a legislation of socio-economic reform and this Hon'ble Court has held that Courts must show judicial restraint in dealing with such legislations.

4. **BENEFITS/UTILITY OF AADHAAR ENDORSED BY HON'BLE SUPREME COURT OF INDIA**

- a. It is further pertinent to state that the importance and utility of Aadhaar for delivery of public services like PDS, curbing bogus admissions in schools and verification of mobile number



subscribers has not only been upheld but endorsed and directed/recommended by this Hon'ble Court.

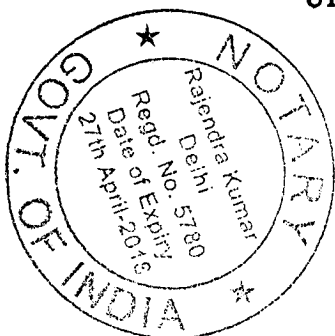
- b. This Hon'ble Court in the case of **PUCL Vs. Union of India (2011) 14 SCC 331** has approved the recommendations of the High Powered Committee headed by Justice D.P Wadhwa, which recommended linking of Aadhaar with PDS and encouraged State Governments to adopt the same.
- c. This Hon'ble Court in **State of Kerala & Others Vs. President, Parents Teachers Association, SNVUP and Others (2013) 2 SCC 705** has directed use of Aadhaar for checking bogus admissions in schools with the following observations:

"18. We are, however, inclined to give a direction to the Education Department, State of Kerala to forthwith give effect to a circular dated 12.10.2011 to issue UID Card to all the school children and follow the guidelines and directions contained in their circular. Needless to say, the Government can always adopt, in future, better scientific methods to curb such types of bogus admissions in various aided schools."

- d. The Supreme Court of India, while monitoring the PILs relating to night shelters for the homeless and the right to food through the public distribution system, has lauded and complemented the efforts of State Governments for *inter alia* carrying out biometric identification of the head of family of each household to eliminate fictitious, bogus and ineligible BPL/AAY household cards. This is evident from the following extracts in **PUCL v.**

Union of India (2010) 13 SCC 45 :

"48. In the affidavit, it is mentioned that NGO, Samya had conducted survey and identified 15,000 homeless beneficiaries of which 14,850 which have been approved for giving "homeless cards". These cards are being prepared zone wise



and the list is displayed at the office of the Assistant Commissioners/Circle Office for distribution of the special homeless cards to the beneficiaries after obtaining their biometric impressions. The NGO, Samya has also been informed to facilitate delivery of these cards to the beneficiaries and enable them to lift the specified food articles and kerosene oil allocated from the linked fair price shop/kerosene oil depot. The details have been mentioned in the AAY programme.

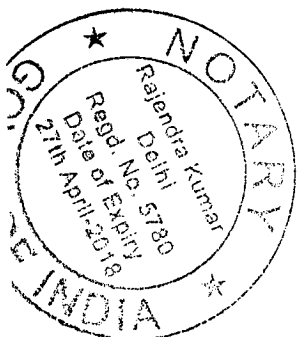
49. It is mentioned in the affidavit that under the Central Scheme of Food and Supplies Department, Government of NCT of Delhi is carrying out review of BPL/AAY household cards which were issued before 15-1-2009. It is simultaneously carrying out biometric identification of head of family of each household to eliminate fictitious, bogus and ineligible cards and those who have left Delhi.

....

53. The Delhi Government has very minutely and carefully analysed the problems of homeless people living in these shelters and is trying to provide a comprehensive programme for the homeless. We must compliment the Government of NCT of Delhi for this effort."

- e. Similarly, a two judge bench of this Hon'ble Court in **PUCL (PDS matters) v. Union of India & Ors. (2013) 14 SCC 368** has held that computerisation is going to help the public distribution system in the country in a big way and encouraged and endorsed the digitization of database including biometric identification of the beneficiaries. In fact the Supreme Court had requested Mr. Nandan Nilekani, Chairman, UIDAI to suggest ways in which the computerisation process of PDS can be expedited. The following extracts from the abovementioned order is relied upon:

"2. There seems to be a general consensus that computerisation is going to help the public



distribution system in the country in a big way. In the affidavit it is stated that the Department of Food and Public Distribution has been pursuing the States to undertake special drive to eliminate bogus/duplicate ration cards and as a result, 209.55 lakh ration cards have been eliminated since 2006 and the annual saving of foodgrains subsidy has worked out to about Rs 8200 crores per annum. It is further mentioned in the affidavit that end-to-end computerisation of public distribution system comprises creation and management of 'digitised beneficiary database including biometric identification of the beneficiaries, supply chain management of TPDS commodities till fair price shops.

3. It is further stated in the affidavit that in the State of Gujarat, the process of computerisation is at an advanced stage where issue of bar coded ration cards has led to a reduction of 16 lakh ration cards. It is expected that once the biometric details are collected, this number would increase further. For the present, a reduction of 16 lakh ration cards would translate into an annual saving of over Rs 600 crores. This is just to illustrate that computerisation would go in a big way to help the targeted population of the public distribution system in the country.

4. In the affidavit it is further mentioned that the Government of India has set up a task force under the Chairmanship of Mr Nandan Nilekani, Chairman, UIDAI, to recommend, amongst others, an IT strategy for the public distribution system. We request Mr Nandan Nilekani to suggest us ways and means by which computerisation process of the public distribution system can be expedited. Let a brief report/affidavit be filed by Mr Nandan Nilekani within four weeks from today."

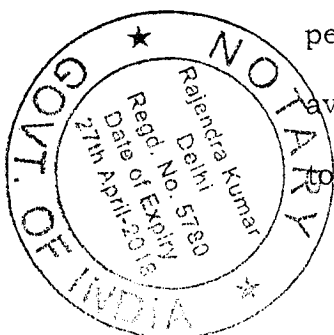
f. This Hon'ble Court in **PUCL v. Union of India (2010) 5 SCC**

318 has also endorsed biometric identification of homeless

persons so that the benefits like supply of food and kerosene oil

available to persons who are below poverty line can be extended

to the correct beneficiaries.



g. These are all instances of this Hon'ble Court encouraging, endorsing and implementing the use of Aadhaar based biometric identification to prevent pilferage, leakages and to ensure elimination of bogus or fake persons from the system. Aadhaar based authentication contained in the impugned notifications is simply an extension of the same laudatory objective of ensuring accurate identification of the individuals, initiated by this Hon'ble Court through its PIL jurisdiction.

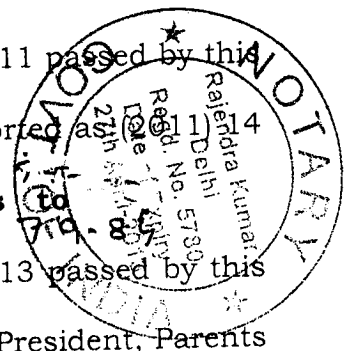
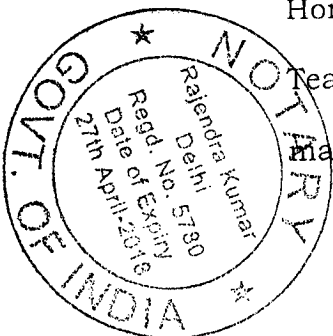
h. More recently, this Hon'ble Court in the case of **Lokniti Foundation v. Union of India bearing W.P. (C) No. 607 of 2016** vide order dated 06.02.2017 has approved the Aadhaar based verification of existing and new mobile phone number subscribers and upon being satisfied that an effective process has been evolved to ensure identity verification, the writ petition was disposed of.

i. Therefore, any interim relief in favour of the Petitioners in this case would be in the teeth of decisions of Co-ordinate Benches which have directed use of Aadhaar for various socio-economic functions.

[A True Copy of the Judgement dated 14.09.2011 passed by this Hon'ble Court in PUCL Vs. Union of India reported as 14 SCC 331 is marked as **Annexure R- 6 at Pages**

[A True Copy of the Judgment dated 06.02.2013 passed by this Hon'ble Court in State of Kerala & Others Vs. President, Parents

Teachers Association, SNVUP and Others (2013) 2 SCC 705 is marked as **Annexure R - 7 at Pages** 85-88 to 88.]



[A True Copy of the order dated 05.05.2010 passed by this Hon'ble Court in the case of PUCL v. Union of India (2010) 13 SCC 45 is marked as **Annexure R -8 at Pages 89 to 99.**]

[A True Copy of the order dated 06.03.2012 passed by this Hon'ble Court in the case of PUCL (PDS matters) v. Union of India & Ors. (2013) 14 SCC 368 is marked as **Annexure R -9 at Pages 100 to 107.**]

[A True Copy of the order dated 10.02.2010 passed by this Hon'ble Court in the case of PUCL v. Union of India (2010) 5 SCC 318 is marked as **Annexure R -10 at Pages 103 to 109.**]

[A True Copy of the order dated 06.02.2017 passed by this Hon'ble Court in the case of Lokniti Foundation v. Union of India bearing W.P. (C) No. 607 of 2016 is marked as **Annexure R -11 at Pages 110 to 114.**]

5. REQUIREMENT OF AADHAAR UNDER OTHER LAWS

- a. Income Tax Act, 1961 - Section 139AA of the Income-tax Act, 1961 as introduced by the Finance Act, 2017 provides that every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number in the application form for allotment of permanent account number and in the return of income. Sub-section (2) provides for mandatory seeding of Aadhaar in PAN by a date to be specified by the Government failing which the PAN shall become invalid. The said date shall be notified by the Government after taking into consideration the existing circumstances and system capabilities. Further, sub-section (3) of the section 139AA provides that the



provisions of the said section shall not apply to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government in this behalf, in the Official Gazette. The new section 139AA in the Income Tax Act seeks to remove bogus PAN cards by linking with Aadhaar, expose shell companies and thereby curb the menace of black money, money laundering and tax evasion. Among adults, the coverage of Aadhaar is more than 99 %. Aadhaar being a unique identifier, the problem of bogus or duplicate PANs can be dealt with in a more systematic and full-proof manner. This Hon'ble Court has heard and reserved the judgment in writ petitions challenging S. 139AA but it did not grant any interim stay of the provision. [A Copy of the order dated 4.05.2017 is marked as **Annexure R - 12** at Pgs to] ¹¹⁵⁻¹¹⁶

b. Section 12 of the National Food Security Act 2013 states as follows:

"REFORMS IN TARGETED PUBLIC DISTRIBUTION SYSTEM

12. (1) The Central and State Governments shall endeavour to progressively undertake necessary reforms in the Targeted Public Distribution System in consonance with the role envisaged for them in this Act.

(2) The reforms shall, inter alia, include—

(a) doorstep delivery of foodgrains to the Targeted Public Distribution System outlets;

(b) application of information and communication technology tools including end-to-end computerisation in order to ensure transparent recording of transactions at all levels, and to prevent diversion;

(c) leveraging "aadhaar" for unique identification, with biometric information of entitled beneficiaries for proper targeting of benefits under this Act; . . .



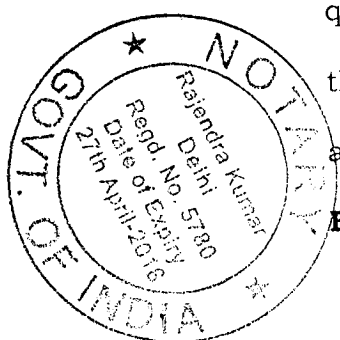
c. Therefore, it is humbly submitted that when Aadhaar has been adopted by several statutes and authorities across the country both pursuant to directions by this Hon'ble Court as well as legislative amendments passed by the Parliament of India, this Hon'ble Court ought not to entertain the present applications seeking interim stay of notifications passed pursuant to the Aadhaar Act 2016, which would stall and interfere with the governance of the country, in the absence of any legal infirmities whatsoever.

6. THE PRESENT WRIT PETITION IS BASED ON HYPOTHETICAL, FUTURISTIC, CONJECTURAL AND ACADEMIC GROUNDS AND IS LIABLE TO BE DISMISSED IN TERMS OF WELL-ESTABLISHED PRINCIPLES OF LAW.

a. The petition does not take in to account the actual achievement and success of Aadhaar project in terms of number of residents enrolled, large scale success of authentication system and growing adoption of Aadhaar based technology by various Governmental and non-governmental organisations.

b. It is submitted that adjudication of the present writ petitions is not within judicially manageable standards. This Hon'ble Court cannot be expected to forestall questions which may arise in future cases and decide them, more or less, *in vacuo* or in abstract and in the absence of necessary materials or facts [See **Central**

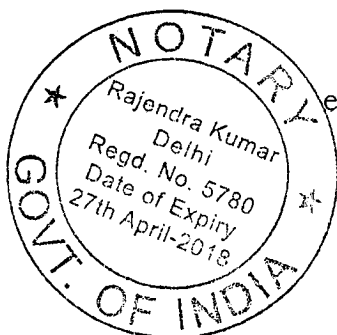
Bank of India v. Workmen (1960) 1 SCR 200, para 31



and **SantLal Bharti v. State of Punjab (1988) 1 SCC 366**, at page 367].

- c. The allegations made by the Petitioner as regards violation of right to privacy, commercial usage of sensitive personal data, tracking / tagging / surveillance, are entirely hypothetical and seek to question the veracity of tried and tested technology which has been introduced by experts after careful consideration. It is therefore submitted, that it is too dangerous to give credence to such allegations which seeks to set at naught the entire Act.
- d. The present Petition is nothing but an attempt on the part of the Petitioner to question the underlying policy decision of the Aadhaar Act which is evident from identical grounds of challenge from the earlier writ petitions and questioning the veracity and effectiveness of the policy. This Hon'ble Court has repeatedly held that "the Court cannot strike down a policy decision ... merely because it feels that another policy decision would have been fairer or wiser or more scientific or logical." **State of M.P. and Ors. v. Nandlal Jaiswal and Ors., (1986) 4 SCC 566 at Para 34; Balco Employees Union (Regd.) vs Union Of India & Ors, (2002) 2 SCC 333; Census Commissioner & Others v. R. Krishnamurthy, (2015) 2 SCC 796**

- e. This Hon'ble Court may consider that while there may be many views expressed by different institutions and



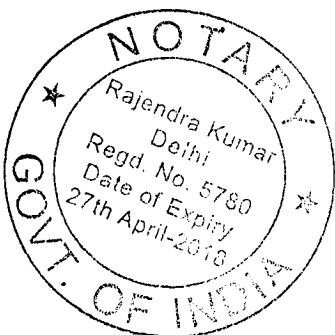
individuals by way of general critique of public policies, such views cannot be allowed to become oppressive instruments to bring down an exemplary project serving the public good.

- f. It is well-settled that a potential for abuse cannot be a basis for striking down a law as *ultra vires* the Constitution and that it is 'the actual abuse that must be brought before the Court for being tested on the anvil of constitutional provisions [R.K. Garg v. Union of India [(1981) 4 SCC 675 @ Para 8]. Mere possibility of abuse of a provision does not, by itself, justify its invalidation. The validity of a provision must be tested with reference to its operation and efficiency in the generality of cases and not by freaks or exceptions that its application might possibly produce in some rare cases.

7. AADHAAR HAS BOTH CONSTITUTIONAL AND LEGAL BASES AND IS CONSTITUTED IN FURTHERANCE OF FUNDAMENTAL RIGHTS & THE DIRECTIVE PRINCIPLES OF STATE POLICIES UNDER PART III AND IV OF THE CONSTITUTION RESPECTIVELY

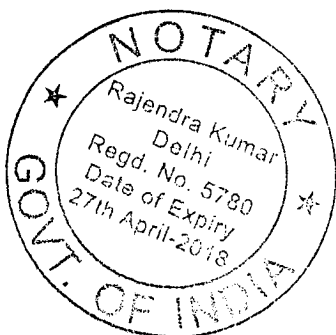
- g. It is submitted that the right to identity is an inherent part of Article 21 and imperative for a meaningful right to life.

- h. Aadhaar Act 2016 is an initiative to recognize and further the fundamental right to identity which would provide identification for each resident across the country and would be used primarily as the basis for



efficient delivery of welfare schemes. Therefore, when such a measure is taken in furtherance of Article 21, it would be futile to argue that it has no constitutional sanction.

- i. Moreover, Aadhaar is also in furtherance of the Directive Principles of State Policy, namely Articles 38, 39 (b) (c), 46, 47, 51(c) as the use of the Aadhaar number will be helpful to verify that a resident is indeed entitled to and is properly availing of social welfare measures carried out in public interest and also in the interests of the marginalized sections of society who are otherwise deprived of these benefits when they are unable to establish their identities.
- j. The UIDAI and the Aadhaar scheme was originally set up under a Notification of the Central Government dated 28.01.2009 which was in exercise of the powers of the Executive under Article 73. The power under Article 73 is concomitant and co-extensive with the power of the Parliament under Article 245 read with Article 246 of the Constitution.
- k. Subsequently, the Aadhaar Act, 2016 received the assent of the Hon'ble President on 25th March, 2016 and the Act was published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 26th March, 2016 as Act No. 18 of 2016 by the Legislative Department. Subsequently, Notification for Establishment of the Authority under Section 11 of the Act was issued on 12-07-2016 and sections 11 to 20, 22



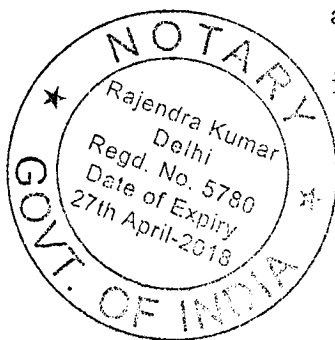
to 23 and sections 48 to 59 of the Aadhaar Act were also made effective on 12-07-2016. Thereafter, on 12-09-2016, Sections 1 to 10 and 24 to 47 of the Aadhaar Act 2016 were notified thereby making the Aadhaar Act 2016 effective.

1. Further, the following regulations are also notified under the said Aadhaar Act 2016:

- i. Unique Identification Authority of India
(Transaction of Business at Meetings of the
Authority) Regulations, 2016 (No. 1 of 2016)
- ii. Aadhaar (Enrolment and Update) Regulations,
2016 (No. 2 of 2016)
- iii. Aadhaar (Authentication) Regulations, 2016 (No. 3
of 2016)
- iv. Aadhaar (Data Security) Regulations, 2016 (No. 4
of 2016)
- v. Aadhaar (Sharing of Information) Regulations,
2016 (No. 5 of 2016)

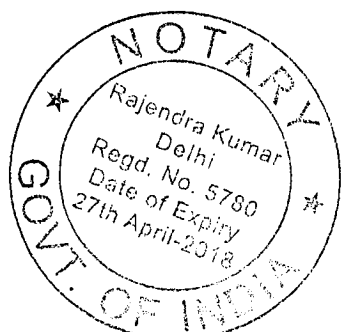
m. It is emphatically submitted that the Aadhaar has requisite statutory backing and has been devised carefully after considering all issues concerning privacy and rights of those to be enrolled as well as a whole range of necessary statutory and other safeguards.

n. This Hon'ble Court has repeatedly held that there is a presumption of constitutionality in favour of a statute and that the Courts would always prefer an interpretation which upholds the law over other interpretations.



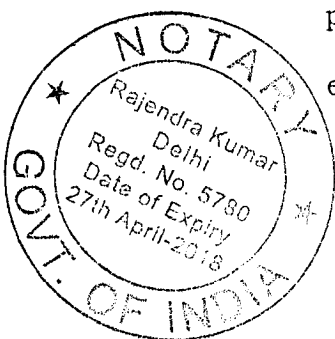
8. THE PETITIONER'S ARGUMENT THAT AADHAAR AFFECTS THE NOTIONS OF CONSTITUTIONALISM IS PREMISED ON A VERY NARROW CONCEPTION OF THE STATE AND ITS DUTIES.

- o. It is submitted that the Petitioner has failed to demonstrate any breach of fundamental rights and rather the entire petition is based on vague notions and hypothetical fears in the mind of the petitioner.
- p. It is submitted that the introduction of the Aadhaar Act falls within the realm of positive duties that must be discharged by the State in furtherance of Parts III & IV of the Constitution.
- q. It is submitted that the petitioner's arguments are premised on the concept that the State has negative duties or duties of restraint towards the citizens/right bearers. That is to say, if a citizen has a right to privacy, the corresponding duty on the State is to not interfere with that right, i.e. a negative duty of restraint. However, a blinkered emphasis on this aspect fails to account for the welfare nature of State wherein this Hon'ble Court has read into the Part III rights, various corresponding positive duties on the State. Professor Sandra Fredman of the University of Oxford in her pioneering book *Human Rights Transformed*, Oxford University Press, 2009 elaborately draws upon the rich Indian jurisprudence evolved by this Hon'ble Court to argue that the understanding that human rights traditionally means protecting individual freedom



against intrusion by the State requires radical revision. Human rights are based on a far richer view of freedom, which goes beyond being let alone, and instead pays attention to individuals' ability to exercise their rights. The Petitioner's argument fails to consider positive duties on the State, which reflects the elite nature of the Petitioners, who are more concerned with rights of privacy over say, right to food, or right to receive targeted subsidized LPG. It is humbly submitted that this petition is not representative of the larger population of India, which is demonstrated from the fact that more than 115.15 Crore residents of India have already enrolled and allocated Aadhaar number.

- r. It submitted that in implementing the Aadhaar Act, the Government is seeking to discharge its positive duties with better efficiency enshrined under the Directive Principles of State Policy as enumerated under the following Articles of the Constitution:
 - a. Article 38 - State to secure a social order for the promotion of welfare of the people
 - b. Article 39(b) - The State shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good.
 - c. Article 39(c) - The State shall, in particular, direct its policy towards securing that the operation of the economic system does not result in the concentration of



wealth and means of production to the common detriment.

d. Article 46 – Promotion of educational and economic interests of the Scheduled Castes, Scheduled Tribes and other weaker sections.

e. Article 47 – Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

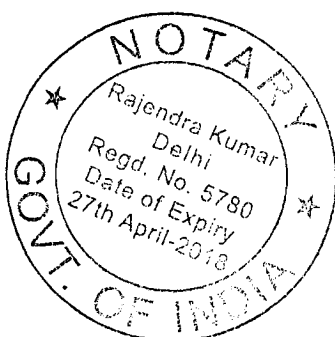
f. Article 51(c) – The State shall endeavour to foster respect for international law and treaty obligations in the dealings of organised peoples with each other.

9. **PRIVACY SAFEGUARDS UNDER THE AADHAAR ACT OF 2016**

a. The petitioner has contended that Aadhaar will facilitate tracking and surveillance. It is denied that the agencies of the government will be able to track individuals or that this will be used for surveillance.

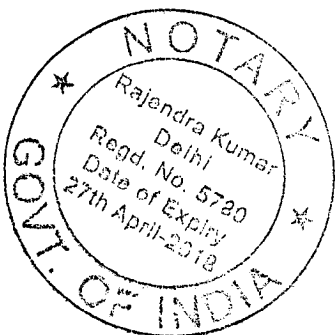
b. The entire premise of the argument of the petitioner that the data is for surveillance purpose is completely baseless and unfounded. By design the technology architecture of the UIDAI precludes even the possibility of profiling individuals for tracking their activities including the purpose for which they may have used Aadhaar.

c. It is submitted that the contention of the petitioner is completely baseless and stems from ignorance of scope and ambit of the Aadhaar Act and the technology used therein. As a matter of policy and by design, the UIDAI



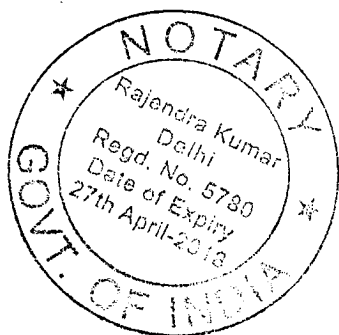
precludes itself from aggregating information arising from the use of Aadhaar, tracking and profiling individuals and the system by intent is blind to the purpose for which Aadhaar may be used at the front end by the resident. Aadhaar is designed on the basis of principles of Minimal Data, Optimal Ignorance, and Federated Database, which will prevent UIDAI, Government or for that matter any Department or Agency to track and profile any individual. For example, a person may use his Aadhaar number for obtaining a SIM card, opening a bank account, and receiving his PDS benefits. Even though Aadhaar number is used by the individual for all the three purposes, Telecom Company will not have any information about his bank details or PDS benefits received by him. Similarly, the bank will not know his SIM cards details and his PDS benefits. So far as UIDAI is concerned it will not have any of the three information – bank details, SIM cards details, and PDS benefits details. A user department of the government, or agency will have information pertaining only to its own domain and will never have or will not be able to build a 360 degree view of any of its customers or beneficiaries.

- d. These principles of Optimal Ignorance, Minimal Data and Federated Databases have now been codified by the Parliament in the Aadhaar Act, 2016 itself. Section 29 of the Aadhaar Act, 2016 prohibits any attempt to link



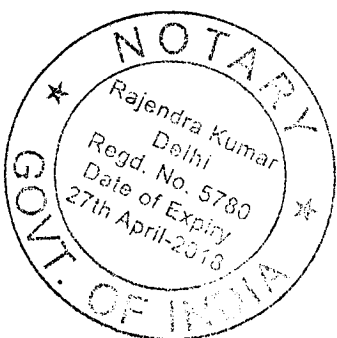
different databases. Therefore, contention of the petitioners that on the basis of a single identifier, Aadhaar will enable the government agencies to track and profile and do surveillance is completely unfounded and denied.

- e. It is submitted that the Aadhaar can do away with fake identities who were earlier pilfering the benefits of several welfare schemes from reaching the intended beneficiaries of such schemes. The genesis of the problem of fakes and duplicates in fact lies in the practice of consumers of services providing different forms of identification alluded to by the petitioner and the use of Aadhaar is intended to tackle such misuse.
- f. It is submitted that the actions of the Government in no way whatsoever undermines human dignity rather it is an enabler of a life of dignity.
- g. It is also submitted that the entire Aadhaar Act of 2016 has been drafted keeping an eye on the privacy of the individual which informs the entire legislation. Certain provisions can be cited to buttress the above submission.
- h. Section 8 (4) provides that the Authority shall respond to an authentication query with a positive, negative or any other appropriate response sharing such identity information excluding any core biometric information.
- i. Section 8(2)(b) states that a requesting entity shall ensure that the identity information of an individual is



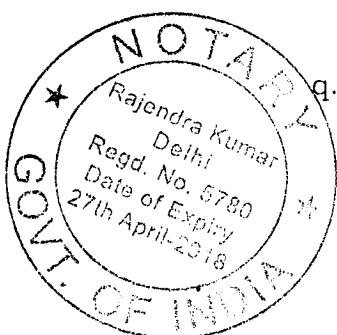
only used for submission to the Central Identities Data Repository for authentication.

- j. Chapter VI provides for a detailed framework for protection of information ensuring security, confidentiality and privacy of the data and the same standards are imposed on agencies, consultants, advisors or other persons appointed or engaged for performing any function of the Authority under this Act. (Section 28)
- k. Section 29 categorically states that no core biometric information, collected or created under this Act, shall be—
 - i. shared with anyone for any reason whatsoever; or
 - ii. used for any purpose other than generation of Aadhaar numbers and authentication under this Act.
 - iii. Section 29(3) also states that no identity information available with a requesting entity shall be—(a) used for any purpose, other than that specified to the individual at the time of submitting any identity information for authentication; (b) disclosed further, except with the prior consent of the individual to whom such information relates.
- l. Section 30 applies the rigours of the I.T. Act, 2000 and the rules thereunder whereby Biometric Information is deemed to be Sensitive personal information.



- m. Section 32 clarifies that the Authority shall not, either by itself or through any entity under its control, collect, keep or maintain any information about the purpose of authentication. Therefore, at every step, the privacy of the individual has been given the highest respect by narrowly tailoring the provisions of the law and ensuring that there is informed consent and purpose limitation as far as sensitive personal information is concerned.
- n. Section 33 makes disclosure of information only subject to court order.
- o. Section 33(2) provides disclosure in the interest of national security only upon a direction by an officer not less than the rank of a Joint Secretary which is further reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect.
- p. Chapter VII provides for penalties and offences which includes penalty for disclosing information with punishment by imprisonment upto three years [per Section 37] as well as punishment for unauthorized access to the Central Identities Data Repository contained in Section 38.

q. Therefore, it is apparent that the entire law is envisaged for protection of the individual's right to privacy with an eye on data security and confidentiality. It is also



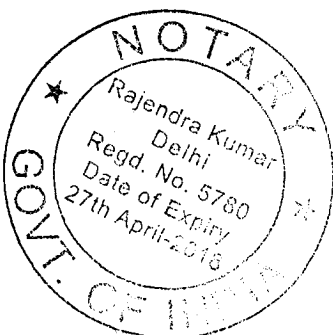
critical to note that whenever Aadhaar is used for purposes other than the ones specified in the Aadhaar Act, the aforesaid privacy protections will have to be ensured. This is provided for by the proviso to Section 57 of the Aadhaar Act.

- r. Aadhaar is a transformational homegrown IT project and an important platform to improve the efficiency and transparency of various e-governance initiatives in the areas of food security, jobs, health, tax, etc.
- s. The Aadhaar Act 2016 [Chapters VI & VII] read together with Aadhaar (Data Security) Regulations, 2016 (No. 4 of 2016) pursuant to clause (p) of sub-section 2 of section 54 of the Aadhaar Act 2016 and Aadhaar (Sharing of Information) Regulations, 2016 (No. 5 of 2016) pursuant to sub section 1 and sub clause (o) of sub section (2) of Section 54 read with sub clause (k) of sub section (2) of section 23, and sub sections (2)& (4) of Section 29 of the Aadhaar Act 2016 provides several safeguards in the form of security and confidentiality of information, restrictions on sharing information, disclosure of certain information and offences and penalties for breach of the Act or regulations.

10. **ACHIEVEMENTS OF AADHAAR**

a. **Targeted Delivery of Food Grains under PDS:**

- i. With implementation of Aadhaar based delivery of food grains to the residents, residents have been empowered to receive their entitlement of full portion of food grains with an assurance that their

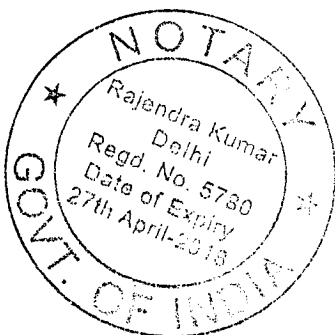


food grains cannot be diverted by middle men through impersonation.

- ii. The implementation has enabled portability for the residents wherein resident can take their entitled food grain from any of Fair Price Shop in the state.
- iii. In the process of seeding Aadhaar for de-duplications and other DBT processes **2.33 crore fake ration cards have been deleted amounting to saving of Rs. 14,000 crore upto December 2016.**

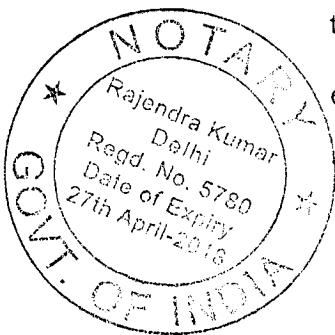
b. **LPG under PAHAL and Ujjwala Scheme:**

- i. The implementation of Aadhaar based DBT in the PAHAL scheme has empowered residents to receive the subsidy amount directly into their Aadhaar linked bank account. **In this process more than 3 crore fake / duplicate LPG connections were weeded out which has resulted into huge financial saving of over Rs 26,000 crore upto December 2016.**
- ii. This has reduced the consumption of Kerosene resulting in reduction in pollution and better environment. Haryana and Chandigarh has become "Kerosene Free City" on 1st April 2016. This was done by giving new LPG connections to BPL families.
- iii. The Aadhaar based DBT has stopped diversion of subsidized LPG which has resulted into increase in sale of commercial LPG cylinders as black



marketing of subsidized cylinder has been contained.

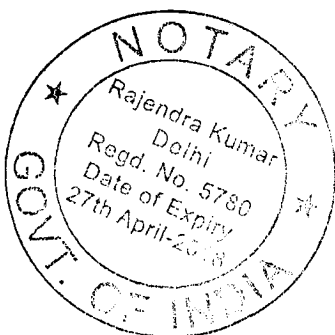
- iv. Further the lead time to receive the LPG cylinder after ordering by the residents has improved to about 3-4 working days from 2-3 weeks earlier.
 - v. From the saving accrued from the PAHAL scheme, Government of India, launched Ujjawala Scheme with target of giving 5 crore LPG connections to BPL women. Over 2.31 crore such connection have been given. This initiative of the Government will improve the health conditions of the women who earlier were prone to diseases arising out of dust and smoke in the kitchen. Also, it contributes to cleaner environment and saving of natural resources.
 - vi. Chandigarh became the first city in India to be declared as "Kerosene Free City" on 1st April 2016. This was done by giving 15,249 new LPG connections including 1,574 to BPL families.
- c. **Jeevan Pramaan:** Jeevan Pramaan facility has empowered the senior citizen pensioners to submit Jeevan Pramaan certificate from anywhere in the country and now they are not required to personally visit the pension disbursement agency Which used to be an onerous affair and required senior citizens to travel to the particular branches where their pension accounts existed. So far more than **71.17 lakh pensioners have used Jeevan Pramaan during the previous year.**



d. **Ease of Opening of Bank Account:**

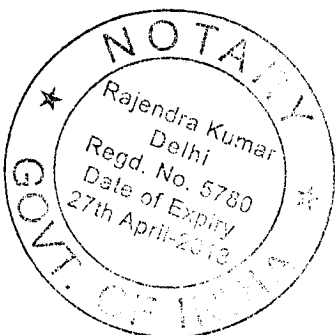
- i. India traditionally has been underbanked country as a large part of the population were not having any identity proof for opening a bank account. Aadhaar has enabled this by becoming the single document which acts as Proof of Identity for opening a bank account.
- ii. To achieve this UIDAI has also enabled e-KYC. Over **7.35 Crore** bank account have been opened using e-KYC service
- iii. Total Bank Accounts seeded with Aadhaar (as on 31st May 2017): **47.25 Cr.**
- iv. Jan dhan accounts are estimated to cover 99.9% of the households in the country. Of the newly opened 28.44 crore Jan Dhan accounts over 18.97 crore accounts have used Aadhaar. The scheme has enabled the Government to offer accidental insurance of Rs 1 lac. life cover of Rs. 30,000 and over draft facility of upto Rs 5,000 to the account holders. No change

- e. **Aadhaar seeding in MGNREGS: Aadhaar number have been linked to over 8.80 crore active NREGA workers of the existing database of 10.38 crore active workers.** All of them are receiving their daily wages directly in their bank accounts. Aadhaar seeding



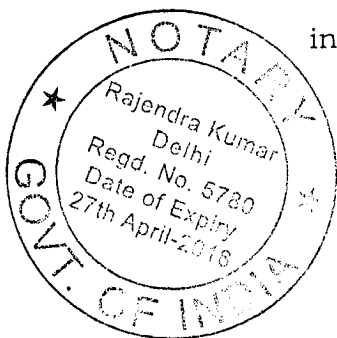
ensures that there are no duplicate or fake workers in the system.

- f. **Aadhaar seeding in NSAP:** Aadhaar number have been linked to over 1.47 crore pensioners of the existing database of 2.83 crore pensioners. All of them are receiving their pensions directly in their bank accounts. Aadhaar seeding ensures that there are no duplicate or fake pensioners in the system.
- g. **Aadhaar seeding in EPFO:** Aadhaar number have been linked to over 1.71 crore UAN of the existing database of 11.18 crore UAN. The purpose of Aadhaar seeding is to ensure de-duplication of UANs and when the funds the credited the fund goes to the genuine person.
- h. **Aadhaar based digital signature - e-Sign:** Individuals have been empowered to use Aadhaar based digital signature (e-Sign) for various purposes such as opening a National Pension Scheme (NPS) account, obtaining a new Permanent Account Number (PAN) card, update in PAN card, etc. This has enabled organizations and individuals to save time and money, facilitate remote access in a safe, secure and reliable way while promoting environment friendly go-green initiative.
- i. **Digi-locker:** Residents have been empowered to open to a digital locker using their Aadhaar and upload their documents. The digilocker has also enabled issuers of the documents such as driving license, certificates issued by educational institutes/boards etc. to directly

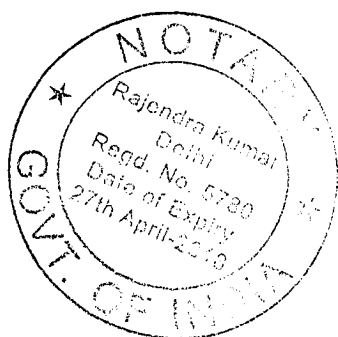


upload the document/certificates into the residents digilocker account in a digitally signed format. These documents/ certificates can be shared by the individuals to any organization(s) / authority as and when required. E.g. while applying for a job an individual need not send physical copy of education certificates, instead s/he can authorize the organization to directly collect the soft copy of the documents from the digilocker. So far, over **73 lakh individuals have availed this facility and uploaded over 83 lakh documents.** Currently over 28 organizations can upload the documents directly to digilocker.

- j. **Door step Banking:** Aadhaar enabled payment system has enabled banks to provide basic banking services such as cash deposit, cash withdrawal, etc at the doorstep in the remote and rural areas where bank branches or ATMs do not exist. A resident can do a basic banking services by using his/her Aadhaar number and his/her bio-metrics. These services are offered by Bank Mitra carrying a handheld device known as microATM. Currently, over **47.25 crore people are enabled to use this service.** The system currently processes over **5 crore transactions every month.** These transactions are currently facilitated across over 2.85 lakh microATMs offered by 128 banks in the country.



- k. **Ease of getting Passport:** Aadhaar has enabled residents to get their passport made easily and in less time. The Ministry of External Affairs (MEA) has started giving the passport within a week's time for applicants who are submitting Aadhaar along with PAN and EPIC (Voter ID) card. So far, **over 1.36 crore residents have obtained passport using their Aadhaar** in a convenient manner.
- l. **E-verification of Income Tax return:** Aadhaar has enabled Income Tax payer to e-verify their income tax return using Aadhaar OTP authentication, obviating the need for sending the ITR-5 in a physical form to Income Tax Authorities. This initiative promotes environment friendly go-green initiative. So far, over 1 crore residents have already linked their Aadhaar with PAN Card and are enabled to avail this facility.
- m. **Aadhaar Seeding in PAN Card:** Linking of Aadhaar number with the PAN Card helps in de-duplicating the PAN card database. This helps in removing duplicate, and benami /fake PAN cards, thereby reducing the use of unaccounted money in the system. Also, it is one of the enabling factors in the Government efforts to broaden the tax net to ensure more number of people file their taxes regularly.
- n. **Aadhaar for getting Mobile SIM:** Aadhaar has enabled telecom operators to issue mobile SIM without the need of physical application form, proof of address and identity documents. Now, residents are able to take



mobile connection by using their Aadhaar and finger print instantaneously. This has enabled organizations and individuals to save time and money, while promoting environment friendly go-green initiative. **Over 24 crore SIMs have been issued using Aadhaar e-KYC service.**

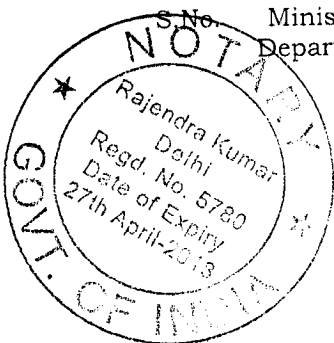
o. **Pay to Aadhaar using BHIM/UPI:** Users of BHIM/UPI application are now enabled to send / transfer money to Aadhaar holders by using only the Aadhaar number of the recipient. Some of the potential uses are: migrant workers sending money to their families using their Aadhaar number or making payment for services/ goods to small vendors into their Aadhaar linked bank account.

p. **Aadhaar Enabled Biometric Attendance System (AEBAS):** Launched in year 2015, the service is now available at 660 organizations, over 2.24 lakh registered employees, over 6000 active devices. It has been observed that due to the system average presence in office has gone up.

q. **Financial Benefits accrued on account for DBT/ Aadhaar since 2014**

Savings Reported due to DBT

S.No.	Ministry / Department	Scheme	Reported Savings (in Rs Cr)		Remarks
			Upto 2015-16	Upto 2016-17 (Interim upto 31.12.2016)	



1	Petroleum & Natural Gas	PAHAL	21,584	26,408	Rs 14,672 cr in 2014-15, Rs 6,912 cr in 2015-16 &Rs 4,824 in 2016-17
2	Food & Public Distribution	PDS	10,191	14,000	In view of deletion of 2.33 Cr Ration Cards upto 2016-17 and better targeting of beneficiaries
3	Rural Development	MGNREGS	3,000	7,633	Saving of Rs 3,000 Cr for 2014-15, assessed in 2015-16 and saving of Rs 4,633 Cr for 2015-16, assessed in 2016-17.
		NSAP	249	399	
4	Others	Others	1,120	1,120	Information regarding savings in other schemes from States is awaited
Total			36,144	49,560	

r. **Estimated savings as per World Bank**

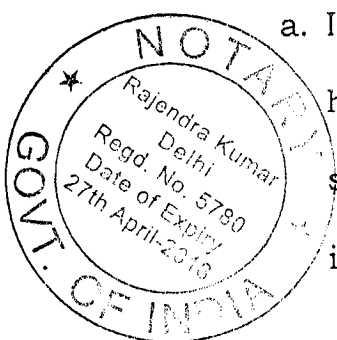
As per Report of World Bank, once Aadhaar is applied to all social programs and welfare distribution, it is estimated that it will save USD 11 Billion per annum.

[Copy of the relevant extracts of the World Bank Report of 2016 titled "Digital Dividends" is marked as **Annexure R -13** at Pages 117 to 127).

[Copy of the press reports relating to successes of Aadhaar is marked as **Annexure R -14** at Pages 128 - 135).

11. **PRACTICE IN OTHER DEMOCRACIES**

a. It is pertinent to examine how other developed democracies have used unique identification numbers to cleanse their system and serve their people. For example, the US had introduced the Social Security Number (SSN) through an



enactment in 1935 for a limited purpose of providing social security benefits during the Great Depression. However, in 1942, President Franklin Roosevelt issued an executive order no 9397 which read-

Whereas certain Federal agencies from time to time require in the administration of their activities a system of numerical identification of accounts of individual persons; and ...

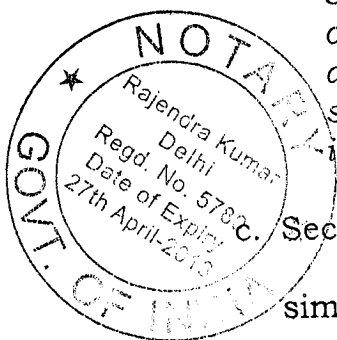
Whereas it is desirable in the interest of economic and orderly administration that the Federal Government move toward the use of a single, unduplicated numerical identification system

Now, therefore ... it is hereby ordered as follows:

Hereafter any Federal department, establishment, or agency shall, whenever the head thereof finds it advisable to establish a new system of permanent account numbers pertaining to individual persons, utilize exclusively the Social Security account numbers ...

- b. Considering its strong deduplication and unique identifier feature, Social Security Number was adopted by Internal Revenue Service as its official Tax Identification Number in 1962 (just as Indian Parliament has recently introduced section 139 AA Income Tax Act to mandatorily require Aadhaar for PAN and Income Tax returns). In 1976, Section 205(c)(2) Social Security Act was amended to require SSN for host of other services in the following terms:

It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers .. for the purpose of establishing the identification of individuals ... and may require any individual ... to furnish to such state .. the social security account number ... issued to him by the Secretary.



Section 7 of the Aadhaar Act, 2016 seeks to achieve similar objectives in India. The mandatory use of SSN by

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state did not go unchallenged in US courts which upheld the mandatory usage of SSN as constitutional. In *Doyle v. Wilson*, 529 F. Supp. 1343 (D. Del. 1982) the US Court held that "mandatory disclosure of one's social security number does not so threaten the sanctity of individual privacy as to require constitutional protection." In other cases, courts have held that requiring an SSN on a driver's license application is not unconstitutional, nor is a requirement that welfare recipients furnish their SSNs since preventing fraud in federal welfare programs is an important goal, and the SSN requirement is a reasonable means of promoting that goal. See *McElrath v. Califano*, *supra*, 615 F.2d at 441; *Greater Cleveland Wel. Rights Org. v. Bauer*, 462 F. Supp. 1313, 1318-19 (N.D. Ohio 1978); *Cantor v. Supreme Court of Pennsylvania*, 353 F. Supp. 1307, 1321-22 (E.D. Pa.), *aff'd without opinion*, 487 F.2d 1394 (C.A.3, 1973); *Conant v. Hill*, 326 F. Supp. 25, 26 (E.D. Va. 1971).

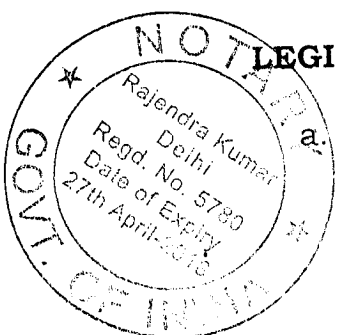
d. In UK too, almost every important service requires National Insurance Number (NIN). It is required for those who want to work, pay taxes, want to receive child benefits, and even those who want to vote.

A Copy of the list of areas where SSN has been made mandatory by US Government is marked as **Annexure R-15** at Pg 136-137 to

12. PRINCIPLES GOVERNING INTERIM RELIEF AGAINST

LEGISLATIONS

a. This Hon'ble Court has repeatedly held that public interest must be viewed as an important factor while

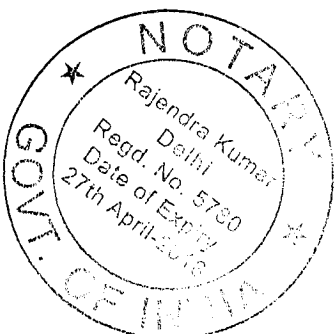


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grating any interim reliefs, especially qua legislations. 115.15 Cr people of India are using Aadhaar and the Government of India has recorded savings to the tune of Rs. 50,000 Crores (approx.) Therefore, this Hon'ble Court may be guided by the principles it has laid down in **Bhavesh D. Parish v. Union of India, AIR 2000 SC 2047:**

Para 30-“...When considering an application for staying the operation of a piece of legislation, and that too pertaining to economic reform or change then the courts must bear in mind that unless the provision is manifestly unjust or glaringly unconstitutional, the courts must show judicial restraint in staying the applicability of the same. Merely because a statute comes up for examination and some arguable point is raised, which persuades the courts to consider the controversy, the legislative will should not normally be put under suspension pending such consideration, it is now well-settled that there is always a presumption in favour of the constitutional validity of any legislation, unless the same is set-aside after final hearing and, therefore, the tendency to grant stay of legislation relating to economic reform, at the interim stage, cannot be understood. The system of checks and balances has to be utilised in a balanced manner with the primary objective of accelerating economic growth rather than suspending its growth by doubting its constitutional efficacy at the threshold itself.

31. While the courts should not abrogate its duty of granting interim injunctions where necessary, equally important is the need to ensure that the judicial discretion does not abrogate from the function of weighing the overwhelming public interest in favour of the continuing operation of a fiscal statute or a piece of economic reform legislation, till on a mature consideration at the final hearing, it is found to be unconstitutional. It is, therefore, necessary to sound a word of caution against intervening at the interlocutory stage in matters of economic reforms and fiscal statutes.”

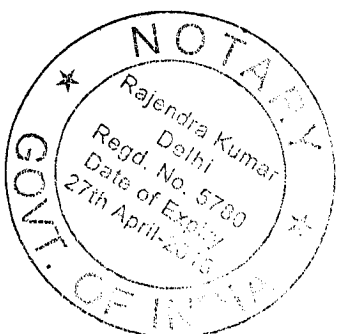


b. Likewise in **Health for Millions v. Union of India**,

(2014) 14 SCC 496, this Hon'ble Court held as follows:

"15. We have considered the respective arguments and submissions and carefully perused the record. Since the matter is pending adjudication before the High Court, we do not want to express any opinion on the merits and demerits of the writ Petitioner's challenge to the constitutional validity of the 2003 Act and the 2004 Rules as amended in 2005 but have no hesitation in holding that the High Court was not at all justified in passing the impugned orders ignoring the well-settled proposition of law that in matters involving challenge to the constitutionality of any legislation enacted by the Legislature and the rules framed thereunder the Courts should be extremely loath to pass an interim order. At the time of final adjudication, the Court can strike down the statute if it is found to be ultra vires the Constitution. Likewise, the rules can be quashed if the same are found to be unconstitutional or ultra vires the provisions of the Act. However, the operation of the statutory provisions cannot be stultified by granting an interim order except when the Court is fully convinced that the particular enactment or the rules are ex facie unconstitutional and the factors, like, balance of convenience, irreparable injury and public interest are in favour of passing an interim order.

16. In Bhavesh D. Parish v. Union of India (supra), this Court considered a somewhat similar question in the context of prayer made for stay of Section 45-S of the Reserve Bank of India Act, 1934 and observed: Before we conclude there is another matter which we must advert to. It has been brought to our notice that Section 45-S of the Act has been challenged in various High Courts and a few of them have granted the stay of provisions of Section 45-S. When considering an application for staying the operation of a piece of legislation, and that too pertaining to economic reform or change, then the courts must bear in mind that unless the provision is manifestly unjust or glaringly unconstitutional, the courts must show judicial restraint in staying the applicability of the same. Merely because a statute comes up for examination and some arguable point is raised, which persuades the courts to consider the controversy, the legislative will should not normally



be put under suspension pending such consideration. It is now well settled that there is always a presumption in favour of the constitutional validity of any legislation, unless the same is set aside after final hearing and, therefore, the tendency to grant stay of legislation relating to economic reform, at the interim stage, cannot be understood. The system of checks and balances has to be utilised in a balanced manner with the primary objective of accelerating economic growth rather than suspending its growth by doubting its constitutional efficacy at the threshold itself.

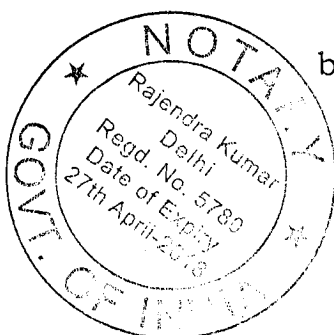
While the courts should not abrogate (sic abdicate) their duty of granting interim injunctions where necessary, equally important is the need to ensure that the judicial discretion does not abrogate from the function of weighing the overwhelming public interest in favour of the continuing operation of a fiscal statute or a piece of economic reform legislation, till on a mature consideration at the final hearing, it is found to be unconstitutional. It is, therefore, necessary to sound a word of caution against intervening at the interlocutory stage in matters of economic reforms and fiscal statutes.

17. A reading of the impugned orders leaves no manner of doubt that while granting interim relief to the writ Petitioners, the High Court did not apply its mind to any of the ingredients, the existence of which is sine qua non for such orders..."

13. PUBLIC INTEREST IS A VITAL CONSIDERATION IN GRANT OF INTERIM INJUNCTION

a. The Hon'ble Supreme Court in ***Mahadeo Savlaram Shelke & Ors. v. Pune Municipal Corporation & Anr.***, (1995) 3 SCC 33 @ Para 14 has held that public interest is one of the material and relevant considerations in either exercising or refusing to grant an interim injunction.

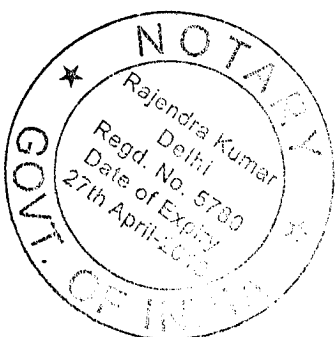
b. In ***M. P. Matur v. DTC*** (2006) 13 SCC 706 @ Para 12, the Hon'ble Supreme Court has held that in equity, the Court has to strike a balance between individual rights



on one hand and the larger public interest on the other hand.

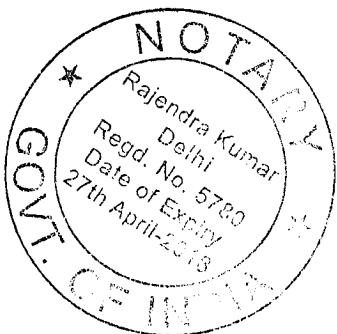
c. Therefore, this Hon'ble Court must consider that the total recorded Savings to the Government of India through only the Direct Benefit Transfer Scheme on account of AADHAAR has been **Rs. 49,560 Cr.** for just two years i.e. **2014-15 & 2015-16**. There is large public interest involved in continuing such savings. At the same time, it is to be noted that various schemes under Section 7 of the Aadhaar Act have also been disbursing benefits and subsidies to beneficiaries through Aadhaar-based authentication, minimizing the use and wastage of paper. There are vital benefits both for the residents who are availing services through Aadhaar-based authentication and savings for the state. The uniqueness of Aadhaar helps in elimination of duplicates and fakes from any beneficiary database leading to immense savings through reduction of leakages and wastages and therefore, it sub-serves vital public interest, which ought not to be stayed on account of apprehensions of the present petitioner. There is also tremendous convenience to the old, infirm and the weaker sections of people who receive benefits like pensions etc at their door-step on account of Aadhaar based E-KYC.

d. It is also pertinent to note that Petition has incorrectly claimed in Para 39 and 40 that as per the Notifications under Section 7 of the Aadhaar Act 2016,



people will be denied benefits if they do not enroll for Aadhaar by 30th June 2017 and therefore people will suffer hardships. It may be noted that the notifications though require people to enroll for Aadhaar by 30th June, 2017, it is provided in the notifications themselves that if people are not able to enroll for Aadhaar before 30th June due to lack of enrolment facilities in the nearby areas, then they can register their request for Aadhaar enrolment before the appropriate authorities giving their contact details so that as and when enrolment facilities are set up in the area, such persons can be enrolled for Aadhaar and for such people benefits will continue to be given even if they have not enrolled for Aadhaar before 30th June, 2017. Therefore, the petitioners have failed to demonstrate any urgency or public interest to seek any interim relief in this regard.

- e. Therefore, not only have the Petitioners failed to establish a prima facie case, the balance of convenience and public interest clearly weighs in favour of the answering respondent as demonstrated above.
- f. Moreover, if the Notifications under Section 7 are stayed, it would tantamount to stay of the enabling provision of Section 7 of the Act, which allows the Central/State Govt. to insist on Aadhaar for delivery of benefits and services paid out of the Consolidated Fund of India and in that event, irreparable injury would be

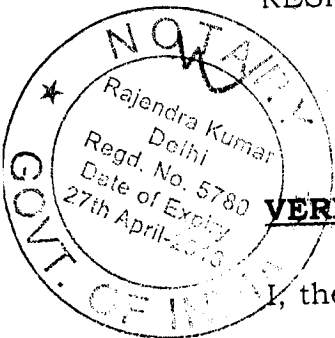


caused to a large number of vulnerable classes of Indians who are dependent on their subsidies and benefits reaching them on account of their unique identification through Aadhaar.

13. The answering respondent reserves the right to file a more detailed Para-wise reply at a later date.

14. In view of the above submissions and reply to the grounds made herein, the present Writ Petition deserves to be dismissed.

AND FOR THIS ACT OF KINDNESS, THE ANSWERING RESPONDENT AS IN DUTY BOUND SHALL EVER PRAY.



VERIFICATION

I, the deponent named above do hereby verify that the facts stated in the above affidavit are true to my knowledge and belief, derived from the records of the case, nothing material has been concealed therefrom and no part of it is false.

Verified at New Delhi on this 6th day of June, 2017.

R. P. Pant
DEPONENT

आर. पी. पंत / R. P. PANT
सहायक महानिदेशक / Asst. Director General
भारतीय विशिष्ट पहचान प्राधिकरण / Unique Identification Authority of India
इलेक्ट्रॉनिक्स और सूचना प्रौद्योगिकी मंत्रालय / Ministry of Electronics & I.T.
महाराष्ट्र सरकार, नई दिल्ली-110001 / Govt. of India, New Delhi-110001

R. P. Pant
DEPONENT

Drawn & Filed by:

Zoheb Hossain,

Advocate for Respondents

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE
DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO
UNDERSTAND & AFFIRMED, DEPOSED BEFORE ME AT
DELHI ON 06.06.2017 IDENTIFIED BY
06.06.2017
IDENTIFY THE EXECUTANT/DEPONENT WHO HAS
SIGNED IN MY PRESENCE

IDENTIFY THE EXECUTANT/DEPONENT
WHO WAS SIGNED IN THE PRESENCE OF

आर. पी. पंत / R. P. PANT
सहायक महानिदेशक / Asst. Director General
भारतीय विशिष्ट पहचान प्राधिकरण / Unique Identification Authority of India
इलेक्ट्रॉनिक्स और सूचना प्रौद्योगिकी मंत्रालय / Ministry of Electronics & I.T.
महाराष्ट्र सरकार, नई दिल्ली-110001 / Govt. of India, New Delhi-110001

RAJENDRA KUMAR
NOTARY, DELHI-R-5760
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No.

Ph. 9212491
9899446

06.06.2017

ITEM NO.13

COURT NO.7

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No. 342/2017

SHANTHA SINHA AND ANR.

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR.

Respondent(s)

(With appln. (s) for interim relief and office report)

Date : 09/05/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Shyam Divan, Sr. Adv.
Mr. Vipin Nair, Adv.
Mr. P. B. Suresh, Adv.
Mr. Udayaditya Banerjee, Adv.
Ms. Samiksha Godiyal, Adv.
Mr. R. Prasanna, Adv.
Mr. Abhay Pratap Singh, Adv.
Mr. Prithu Garg, Adv.
Mr. Vipin Nair, Adv.

For Respondent(s)

Mr. Ranjit Kumar, SG.
Mr. Zoheb Hossain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Issue Rule Nisi.

Tag with Writ Petition (Civil) No. 494 of 2012 and
other connected matters.

Mr. Shyam Divan, learned senior counsel appearing for

Signature Not Verified

Digitally signed by
NIDHI AHUJA
Date: 2017.05.09
18:04:45+05'30
Reason:

the petitioners, submits that some urgent orders are required
on the interim prayers made by the petitioners, as enrollment

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W.P. (C) No. 342/2017

under Aadhaar in respect of certain schemes is required by 30th June, 2017 . He has also drawn our attention to the orders dated August 11, 2015 passed in Writ Petition (C)No. 494 of 2012 wherein the Court observed that having regard to the importance of the matter, it is desirable that the matters be heard at the earliest. He, further submits that same sentiments were expressed by the Constitution Bench in its order dated 15th October, 2015.

It will always be open to the petitioners to mention the matter before Hon'ble the Chief Justice for constituting an appropriate Bench to hear the matters finally at an early date. It will also be open to the petitioners to request for hearing of the interim prayers made by them.

(Nidhi Ahuja)
Court Master

(Mala Kumari Sharma)
Court Master

True copy

ITEM NO.60

COURT NO.5

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 797/2016

S.G. VOMBATKERE AND ANR.

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR.

Respondent(s)

(with appln. (s) for interim relief and permission to file additional documents)

Date : 28/10/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Mr. Anuj Sarma, Adv.
Ms. Niharika, Adv.
Mr. Udayditya Banerjee, Adv.
Mr. Prasana S, Adv.
Ms. Samiksha, Adv.
For M/s. K. J. John & Co., Adv.

For Respondent(s) Mr. Mukul Rohatgi, A.G.
Mr. Ajay Sharma, Adv.
Mr. Zoheb Hossain, Adv.
Mr. D.S. Mahra, Adv.
Ms. Anil Katiyar, Adv.
Mr. B.K. Prasad, Adv.
Ms. Ranjeeta Rohatgi, Adv.
Mr. Vikramjit Banerjee, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Issue Rule Nisi.

Tag with W.P. (C) No. 494/2012 and connected matters.

Signature Not Verified

Digitally signed by OM
PARKASH SHARMA
Date: 2016.10.28
17:51:21 IST
Reason: []

[O.P. SHARMA]
AR-CUM-PS

[RAJINDER KAUR]
COURT MASTER



IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A No. OF 2015

IN

WRIT PETITION (CIVIL) NO. 494 OF 2012

Annexure-3

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IN THE MATTER OF:

JUSTICE K.S PUTTASWAMY (RETD.).

& ANR

... Petitioners

VERSUS

UNION OF INDIA & ORS.

... Respondents

AND IN THE MATTER OF:

Unique Identification Authority of India (UIDAI)
Department of Electronics & Information Technology
Government of India
3rd Floor, Tower- II, Jeevan Bharti Building,
Connaught Circus
New Delhi - 110001

Applicant

APPLICATION FOR MODIFICATION / CLARIFICATION OF INTERIM
ORDER DATED 11-08-2015

PAPER-BOOK

(FOR INDEX, PLEASE SEE INSIDE)

ADVOCATE FOR THE RESPONDENTS : MANISH VASHISHTHA

RECORD OF PROCEEDINGS

Sl. No.	Date of record of proceedings	Pages
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2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
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11.		
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13.		
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19.		
20.		

Srl No.	Particulars	Pages
1.	IA No. of 2015 Application for Modification / Clarification of the interim order dated 11-08-2015 with Affidavit	1 to 22
2.	Annexure - R/1 True copy of the Order of Hon'ble Supreme Court dated 11-08-2015	23 to 38
3.	Annexure - R/2 A true copy of the Exhaustive list of Welfare Schemes	39 to 42
4.	Annexure - R/3 Copy of the Interim Order of the Hon'ble Supreme Court dated 23-09- 2013.	43 to 44
5.	Annexure - R/4 True copy of the Interim Order of the Hon'ble Supreme Court dated 16-03- 2015	45 to 50
6.	Annexure - R/5 True Copy of the Order of the Hon'ble Supreme Court dated 24-03-2015 in SLP (Cr) 2524 of 2014	51 to 52

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

I.A. No. of 2015

in

WRIT PETITION (CIVIL) No. 494 of 2012

IN THE MATTER OF:

JUSTICE K.S PUTTASWAMY (RETD.).

& ANR

... Petitioners

VERSUS

UNION OF INDIA & ORS.

... Respondents

AND IN THE MATTER OF:

Unique Identification Authority of India (UIDAI)

Department of Electronics & Information Technology

Government of India

3rd Floor, Tower- II, Jeevan Bharti Building,

Connaught Circus

New Delhi - 110001

Applicant

APPLICATION FOR CLARIFICATION/MODIFICATION OF INTERIM ORDER

DATED 11.08.2015

To:

The Hon'ble Chief Justice of India and

his companion Justices of the Supreme Court of India

The humble application of the Applicant
above named

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MOST RESPECTFULLY SHOWETH:-

1. That the Applicant herein is Respondent No. 3 in the abovementioned Writ Petition (Civil) 494 of 2012.
2. That Writ Petition (Civil) No. 494 of 2012 (Justice K Puttaswamy (Retd) v Union of India) and the connected cases have been filled challenging the constitutionality and legality of the "Aadhaar Card Scheme" on various counts.
3. The present Application is seeking a modification/clarification of its interim order dated 11.08.2015 ("impugned order"), the relevant portion of which is extracted hereinbelow:-

"Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or the UIDA proceed in the following manner:-

1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;
 2. The production of an Aadhaar card will not be a condition for obtaining any benefits otherwise due to a citizen;
 3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The
-

Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;

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4. The information about an individual obtained by the Unique Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation."

[Copy of the order dated 11.08.2015 is marked and attached as **Annexure-R/1**](Page 33-38)

4. The present Applicant is seeking a modification/clarification of only Paragraph 3 of the impugned order. The clarification/modification being sought is to allow the Aadhaar number/card to be used not only for the PDS Scheme or the LPG Distribution Scheme, but also for other social benefit schemes or services of the Government of India and like services based on resident consent to enable those who are enrolling/enrolled on a voluntary basis to avail of the services and benefits linked with Aadhaar, or continue using the same. This implies that when a resident who is enrolled for Aadhaar wants to avail of any Aadhaar-linked service, he should have the option of providing his biometrics, asking the UIDAI to authenticate his identity. If authenticated, he can instantaneously access the said service, thereby saving time and the need for providing other identity proof, which he may or may not have.
 5. The operation of the impugned order has resulted in considerable hardship being faced by the residents of the country in accessing
-

services and benefits being provided by the Government of India and like services which serve several vital purposes viz., financial inclusion, economic development and access to efficient governance. At the same time it has also brought to a stop the process of streamlining several government databases which has been undertaken to reduce corruption, cut out middlemen and deliver services efficiently to the people of India in a time-bound manner.

6. It is humbly submitted that the Aadhaar card/number is the most widely held form of identity document with the widest coverage amongst the residents/citizens. This is evident from the following table:

Identity Document	Coverage
Passport	5,70,35,943 ¹
Pan Card	17 Crore (Approx.) ²
EPIC Card	60 Crore (Approx.) ³
Ration Card	15.17 Crore (Approx.) ⁴
Driving License	17.37 Crore (Approx.) ⁵
Aadhaar	91.68 crore

¹ Source : Annual Report 2014-15, Ministry of External Affairs, Government of India.

² Source : Tax Administration Reforms Commission Report November, 2014.

³ Source: Election Commission of India website (state wise electoral rolls).

⁴ Source: Foodgrains Bulletin, July 2015, Department of Food and Public Distribution, Government of India (data for 24 States/ UTs).

⁵ Source Road Transport Year Book 2011-12, Table 4.3 (Page 78) [excluding data for the states/UTs of Bihar, Arunachal Pradesh, Jharkhand, Punjab, West Bengal, A&N Islands, Chandigarh and Dadra Nagar Haveli for which figures are not reported]

7. Since Point 3 of the impugned order prohibits the use of Aadhaar for any purpose apart from distribution of food-grains and kerosene in the PDS Scheme as well as LPG distribution, crores of residents of India are denied the use of a basic form of identity for all other purposes, even if they choose to do so voluntarily. Given that the Aadhaar number/ card is the most widely held identity document, this causes serious hardship to such residents, for many of whom it is the only identity proof that they possess. A non-exhaustive description of such crucial purposes is provided below:

8. There are several schemes of the Government of India where the Aadhaar number is used on a purely voluntary basis in order to access basic services and benefits that would either have been unavailable or difficult to access otherwise.

a. Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS):

9. The MGNREGS pursuant to the MGNREG Act, 2005 assures livelihood security to the rural poor by guaranteeing a minimum of 100 days of wage employment annually to every household whose adult members volunteer to do manual unskilled work. There are 9.16 crore active workers registered in the MGNREGS. Of these, 3.16 crore have bank accounts and job cards linked with their Aadhaar number. Using these, 1.09 crore payment transactions transferring wages have been already remitted. The process is seamless and involves

more than 87,000 banking correspondents (of banks/ India Post) who go from village-to-village/ neighbourhood-to-neighbourhood with micro-ATM devices. Those who are entitled to receive MGNREGS wages and have Aadhaar-linked bank accounts can authenticate their identity at their doorstep/ neighbourhood. This ensures that amounts are credited to their bank accounts immediately, allowing them to withdraw money with ease thereby furthering the end of financial inclusion. This saves them the trouble of going to the nearest bank, often at distances in excess of 40 km, thereby saving loss of a day's wages. Further it prevents instances of "ghost" intermediaries, i.e. fake beneficiaries from claiming wages that rightfully belong to genuine workers. Figures indicate that over 80 lakh MGNREGS workers were withdrawing their wages using Aadhaar biometric authentication every month at their doorstep/neighbourhood without middlemen and any delay. The impugned order does not permit this usage any longer causing tremendous difficulty to such residents who at the cost of back-breaking travel and loss of wages have to go to their bank branches to receive their daily wage. Therefore, it is the right to livelihood of millions of Indians, which is facilitated by Aadhaar and ought to be allowed at par with the permitted uses. 58

b. National Social Assistance Programme (Old Age Pensions, Widow Pensions, Disability Pensions)

10. In the aforementioned pension schemes of the Government of India, of over 2.55 crore beneficiaries, about 54 lakh have their pension accounts linked with Aadhaar. Using such facility, over 64 lakh payment transactions have been made and over Rs 507 crore electronically remitted directly to beneficiary's Aadhaar linked savings accounts. This is done again by more than 87,000 banking correspondents (of banks/ India Post) who go from village-to-village/ neighbourhood-to-neighbourhood with micro-ATM devices. Those who are entitled to receive such pensions and have Aadhaar-linked bank accounts can authenticate their identity at their doorstep/ neighbourhood. This saves old-age pensioners, widows and the disabled the trouble of going to their bank branch to receive their pensions which is onerous particularly in far-flung rural areas. Nearly 25 lakh beneficiaries are using online biometric authentication of Aadhaar to withdraw their pension every month at their doorstep/ neighbourhood. The impugned order does not permit this usage.

c. Prime Minister's Jan Dhan Yojana (PMJDY)

11. The PMJDY is a scheme for financial inclusion of the marginalised sections of society who do not have access to formal credit. The scheme permits the opening of zero-balance bank accounts and dispenses with the requirement of onerous documentation required for account opening. Over 17.29 crore

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accounts have been opened under PMJDY. Of these over 7.01 crore individuals have presented Aadhaar as identity proof to open the accounts and link Aadhaar to their PMJDY accounts. Since PMJDY is directed primarily at BPL families and those who are financially excluded, the Aadhaar number is crucial for accessing benefits via the bank account for several social benefits and government schemes. Pertinently, three pension schemes of the Government of India, the Atal Pension Yojana (APY), the PM Suraksha Bima Yojana (PMSBY) and the PM Jeevan Jyoti Bima Yojana (PMJJBY) are in design, linked with PMJDY accounts. These schemes provide wide insurance coverage with small premiums thereby furthering the goal of financial inclusion. As an illustrative example, for PMSBY, paying a premium of Rs. 12 per annum, the insured is entitled to coverage for Rs. 2 lakh. When the Aadhaar number is linked, the claim amounts can be directly transferred to the bank accounts of the beneficiaries. This cuts out middlemen and ensures quicker transfer of funds at times of need to persons who otherwise would have no access to formal credit and insurance. The impugned order does not permit the usage of Aadhaar to open bank accounts under the PMJDY, even on a voluntary basis.

d. Jeevan Pramaan (Life Certificate)

12. At present, all pensioners, including ex-servicemen and those who might be immobile or challenged have to physically visit the
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bank where their pension account has been opened annually to demonstrate that he/she is alive and therefore entitled to receive pension. This is an onerous affair as this proof cannot be given anywhere in India and requires senior citizens to travel, in most cases, to the particular branches where their pension accounts exist in the month of November, to continue to receive pensions, irrespective of where they reside at present. There are over 1.5 crore pensioners, with approximately 25 lakh from defence forces, 25 lakh from PSUs, and 50 lakh from States and UTs. The Jeevan Pramaan scheme dispenses with this requirement of personal appearance at the bank/ branch. Using Aadhaar, the pensioner can go to any bank/citizen service centre (CSC) in India which has the Jeevan Pramaan facility. This is widely available across India. At such centres, he/ she can use Aadhaar to authenticate that he/she is alive. Over 3.2 lakh retired people have already used Aadhaar Authentication to get Jeevan Pramaan certificate in a convenient manner and lakhs of people are expected to use this facility in November this year.

e. Online OPD registration and appointment (AIIMS and other hospitals)

13. This facility is available for booking OPD registration in 6 hospitals in India including AIIMS. Currently, patients from far-flung
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areas have to come to particular hospitals, wait in queue for long hours, despite their ill-health, and attempt to obtain an OPD card and then to book an appointment. This facility allows users anywhere in the country to use their Aadhaar number to obtain a OPD card and even book an online appointment in the hospitals that use this facility. Over 56,000 appointments have been booked using this facility so far. This has saved persons, usually the sick and infirm, considerable time, as well as obviated the need to stand in long queues that has a deleterious effect on their already fragile health. This facility cannot be continued or extended owing to the operation of the impugned order.

f. Employees' Provident Fund Organisation (EPFO)

14. There are over 5.4 crore contributory members to the EPFO. Currently, when employees change companies, multiple PF accounts, which are not linked to each other, are created. It is onerous to withdraw money from these accounts as they may be situated in different locations, in several cities. Due to this, deposits in several PF accounts remain unclaimed as the process for withdrawal is time-consuming and inconvenient. The linkage of Aadhaar numbers with PF accounts provides employees with a lifelong Universal Access Number (UAN) which is a Unique Identifier. Using the UAN, employees can make a single application irrespective of location to the relevant authority for withdrawal. All PF accounts also have overarching linkage thereby making it easier for the person to
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transfer money between accounts and withdraw money. This facilitates movement of persons for employment across India and access to PF funds with ease across locations. Currently, over 87 lakh persons have linked their Aadhaar to their UAN in order to avail these benefits.

15. It is humbly submitted that the Impugned order restricting the use of Aadhaar only for the PDS Scheme and the LPG Distribution Scheme has deleterious effect on the aforementioned schemes and other services which use the Aadhaar platform for effective and efficient delivery of such schemes, strictly on the basis of resident's consent. The purpose of highlighting the aforementioned schemes or services is to demonstrate the widespread voluntary use of Aadhaar, the benefits that accrue to individuals, particularly to the poor and those without any other form of identity, and the hardship caused by the impugned order that prohibits such voluntary use.

[A copy of an exhaustive list of welfare schemes linked to Aadhaar are marked and attached as **Annexure R/2**] (Page 39 - 42)

16. It is also humbly submitted that this Hon'ble Court while allowing the use of Aadhaar for PDS and LPG schemes was conscious of the important underlying rights therein which Aadhaar sought to facilitate, viz. the right to food which is contained in Article 21 of the Constitution. However, it is humbly submitted that apart from the
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PDS and LPG schemes, the schemes and facilities aforementioned, viz. MGNREGS, pension schemes, disability pensions, EPFO which are Aadhaar-linked, equally allow access to rights contained in Article 21 of the Constitution itself. The right to work, right to receive old age pension or disability pension cannot be considered in anyway to be inferior to the right to food since often the former is an enabler of the latter right and are all found within the content of Article 21 of the Constitution. Therefore, if this Hon'ble Court could allow the Government to implement the PDS and LPG Schemes through the Aadhaar platform, there is no reason why Aadhaar should not be allowed for these other equally important schemes on a purely voluntary basis.

17. It is humbly submitted that there is a legitimate state interest in ensuring that the various benefits, subsidies and services being offered by the State should reach the intended beneficiary and not to fakes and duplicates, which proliferate in the system leading to loss of thousands of crores of rupees of public money. The uniqueness of Aadhaar helps in elimination of duplicates and fakes from any beneficiary database leading to immense savings through reduction of leakages and wastages. In a recent article in the New York Times, Siddharth George and Arvind Subramanian write,

"The Indian government subsidizes households' purchases of cooking gas; these subsidies amounted to about \$8 billion last

year. Until recently, subsidies were provided by selling cylinders to beneficiaries at below-market prices. Now, prices have been deregulated, and the subsidy is delivered by depositing cash directly into beneficiaries' bank accounts, which are linked to cellphones, so that only eligible beneficiaries — not "ghost" intermediaries — receive transfers.

Under the previous arrangement, the large gap between subsidized and unsubsidized prices created a thriving black market, where distributors diverted subsidized gas away from households to businesses for a premium. In new research with Prabhat Barnwal, an economist at Columbia University, we find that cash transfers reduced these "leakages," resulting in estimated fiscal savings of about \$2 billion.⁶

18. An illustration of the impact of Aadhaar is evident from the streamlining of the MGNREG scheme database. For instance, the linking of the Aadhaar number in the MGNREG scheme database has been done in the states of Andhra Pradesh and Telangana. The seeding has resulted in a large number of ghost workers being deleted from the database. This has resulted in a saving of an estimated minimum of Rs. 127 Crores in the aforementioned states and ensures that the money reaches its intended beneficiary, i.e. the

⁶ Siddharth George and Arvind Subramanian, "Transforming the Fight against Poverty in India" *The New York Times*, July 22, 2015.

MGNREG scheme worker. A detailed table below shows the type of bogus workers who were enrolled in the MGNREG scheme database collected from respective State Governments:

Type of Bogus workers	AP	Telangana	Total
Dead person	155179	118754	2,73,933
Name exists in other job card	67569	23210	90,779
Migrated (not present in village)	588086	221189	8,09,275
Double Job Card	62060	42677	1,04,737
Total 'bogus' database	872894	405830	12,78,724
Total workers	20416000	15490000	3,59,06,000

19. Similarly in a study conducted in 2 districts of West Bengal, it was found that the percentage of bogus workers has been estimated at around 15% of the total number of workers who are reported to have worked.

20. The benefits accrued from seeding of beneficiaries' Aadhaar number into the database of various social welfare schemes has resulted in huge savings for the Government of India and elimination of duplicates from the system. A tabular chart below is illustrative of the savings on account of the Aadhaar Scheme collected from respective State Governments:

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State	No. of beneficiaries	% of beneficiaries seeded	Duplicates detected	Estimated benefits accrued
Scholarships				
Andhra Pradesh	4.44 lakhs	98%	30,380	Rs.126 Cr
Telangana	5.34 lakhs	99%	36,960	Rs.150 Cr
Punjab	2.72 lakhs	50%	1,618	Rs.0.72 Cr
PDS				
Andhra Pradesh	478.34 lakhs	59%	69 lakh beneficiaries	Rs. 1275 Cr
Telangana	308.31 lakhs	65%	4,305,805	Rs. 953 Cr
Puducherry	12.85 Lakhs	41%	27000 ration cards	Rs. 17.78 Cr
Delhi	72.50 lakhs	83%	80000 ration cards	Rs. 100 Cr
Pensions				
Jharkhand	8.21 lakhs	59%	1,27,860	Rs.63.90 Cr
Chandigarh	0.06 lakhs	99%	1,877	Rs.1.74 Cr
Puducherry	1.35 lakhs	54%	2,200	Rs. 0.03 Cr
TOTAL				<u>Rs.2687.07</u> <u>CRORE</u>

21. It is humbly submitted that the saving of such a significant amount of public money, when combined with the benefits that accrue to residents by using Aadhaar number provides sufficient basis for this Hon'ble Court to clarify/ modify its interim order dated 11.08.2015 allowing the use of Aadhaar, strictly on the basis of resident consent.

22. Such order will be in keeping with earlier orders of this Hon'ble Court, by which it has always maintained that Aadhaar and its associated services/benefits can only be used on a voluntary basis without making it mandatory or compulsory and that no one should be denied of any benefits or services for want of the Aadhaar Card. Therefore, this Hon'ble Court has always underlined the principle of consent and voluntariness respecting individual choice and autonomy while balancing the interests of the petitioners as well as those teeming crores of citizens and residents of India who have voluntarily sought for the Aadhaar card/number for easy and convenient availability of a host of social services and benefits, discussed earlier. There is no reason of law or convenience that warrants a departure from this position. This is evident from the interim orders passed from time to time.

23. This Hon'ble Court in its order dated 23.09.2013 was pleased to direct as follows:-

"In the meanwhile, no person should suffer for not getting the Aadhaar card in spite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar Card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

[Copy of the interim order dated 23.09.2013 is marked and attached as **Annexure-R/3**] (Page 43-44)

24. Similarly, this Hon'ble Court while reiterating the earlier directions passed the order dated 16.03.2015 in the following terms:-

"... Since Union of India is represented by learned Solicitor General and all the States are represented through their respective counsel, we expect that both the Union of India and States and all their functionaries should adhere to the Order passed by this Court on 23rd September, 2013. "

[Copy of the interim order dated 16.03.2015 is marked and attached as **Annexure-R/4**] (Page 45-50)

25. Again, this Hon'ble Court in a Special Leave Petition filed by the UIDAI against the High Court of Bombay at Panaji in its order dated 24.03.2014 in SLP(Crl.) No. 2524 of 2014 reiterated that the use of Aadhaar shall be purely consent based and not compulsory. The operative portion of the order dated 24.03.2014 is as follows:-

"In the meanwhile, the present petitioner is restrained from transferring any biometric information of any person who has been allotted the Aadhaar number to any other agency without his consent in writing.

More so, no person shall be deprived of any service for want of Aadhaar number in case he/she is otherwise eligible/entitled.

All the authorities are directed to modify their

forms/circulars/likes so as to not compulsorily require the Aadhaar number in order to meet the requirement of the interim order passed by this Court forthwith."

[Copy of the interim order dated 24.03.2014 is marked and attached as **Annexure- R/5**] (Page 51-52)

26. In the interim order dated 11.08.2015, in spite of the Petitioner's plea, this Hon'ble Court did not stop the process of enrolment of residents into Aadhaar on a voluntary basis. The same principle ought to be extended to use of Aadhaar for social welfare schemes and services as well. This proposition simply involves giving an individual the option of using an Aadhaar-linked service in order to authenticate his/ her identity. The identity of the individual having been duly authenticated the service provider can proceed to provide the said service. Thus in relevant part, giving an individual such an option is analogous to permitting an individual to access and use his/ her own information as he/ she chooses.

27. Further, there is no credible apprehension of breach of privacy if this were to be permitted. In light of the submission of the Ld. Attorney General for India that no biometric information of the Aadhaar card holder is shared, the Court noted,

"The learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder

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through biometrics or otherwise with any other person or authority. This statement allays the apprehension for now, that there is a widespread breach of privacy of those to whom an Aadhaar card has been issued."

28. On this basis it is humbly submitted that there is no likelihood of any injury, irreparable or otherwise, to be caused to the public if this Hon'ble Court allows the use of Aadhaar number/card on a voluntary basis for any social benefit scheme or service. On the contrary, the balance of convenience lies in enabling the use of Aadhaar for crores of residents, particularly the poor, to exercise their rights and receive their benefits, and the State to reduce public expenditure by efficient targeting of such benefits.
29. The Aadhaar programme provides developmental benefits to large sections of society, specifically the financially excluded, pensioners, marginalised and deprived strata. It not only makes routine tasks such as withdrawing money from bank accounts convenient for such persons, but is often also the only identity proof available to them to access basic services. In essence it involves millions of individuals consenting to a more convenient and secure method of accessing state subsidies and largesse which over the years has, in large measure, not reached them as intended, benefited ghost claimants and been siphoned off by a range of middlemen. In this entirely consensual process of accessing state largesse, the
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question of their right to privacy being affected or violated in any way does not arise.

PRAYER

30. In light of the above legal and factual submissions, it is, therefore, prayed that this Hon'ble Court may be pleased to clarify or modify its order dated 11.08.2015 to allow the Aadhaar number/card to be used not only for the PDS Scheme and LPG Distribution Scheme but also for any social benefit scheme or service of the Government of India, State Governments or like services based on resident consent to enable those who are enrolled/enrolling on a voluntary basis to avail of the services and benefits of Aadhaar, as outlined above and pass such other and further orders as this Hon'ble Court may deem fit and proper.

Drawn by

Filed by

ZOHEB HOSSAIN

Mr. Manish Vashishtha

Advocate

Advocate for the Applicant

Filed on:- 23.09.2015
New Delhi

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

L.A No. OF 2015

IN

WRIT PETITION (CIVIL) NO. 494 OF 2012

IN THE MATTER OF:

JUSTICE K.S PUTTASWAMY (RETD.).

& ANR

... Petitioners

VERSUS

UNION OF INDIA & ORS.

..Respondents

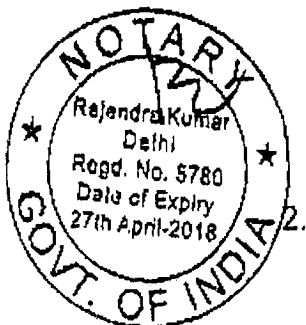
IN THE MATTER OF :

Unique Identification Authority of India (UIDAI).... Applicant

AFFIDAVIT

I, REENA SAHA, Late KK Saha, aged about 48 years, resident of Ashiana Upvan, Indirapuram, Ghaziabad - 201014, do hereby solemnly affirm and state as under :-

1. That I am working as the Assistant Director General of UIDAI and therefore, I am conversant with the facts and circumstances of the case. As such I am competent to swear this affidavit.



2. That I have read contents of paras 1 to 30 in page Nos. 1 to 20 of the Present Application and have understood

the same. I state that the facts stated in the Present Application are true based on the records maintained by the Applicant.

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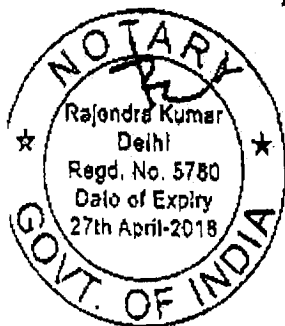
3. That the Annexures filed alongwith the present Application are the true copies of their respective originals.

Reena Saha
रिना साह / REENA SAHA
उपसंचालक / Assistant Director General
भारतीय विशिष्ट पहचान प्राधिकरण
Unique Identification Authority of India
एन डी ई ऑफिस, जवाहर भवन, नई दिल्ली-110001
नई दिल्ली-110001

VERIFICATION:

I, the deponent abovenamed, do hereby verify that the contents of paras 1 to 3 of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 23rd day of September, 2015.



Reena Saha
DEPONENT

रिना साह / REENA SAHA
उपसंचालक / Assistant Director General
भारतीय विशिष्ट पहचान प्राधिकरण
Unique Identification Authority of India
एन डी ई ऑफिस, जवाहर भवन, नई दिल्ली-110001
नई दिल्ली-110001

ATTESTED

Rajendra Kumar
RAJENDRA KUMAR Ph. 8212481692
NOTARY, DELHI-R-8700 8898446209
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register: P&M: MP: 23.09.2015

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON 23.09.2015 IDENTIFIED BY IDENTIFY THE EXECUTANT/DEPONENT WHO HAS SIGNED IN MY PRESENCE

IDENTIFY THE EXECUTANT/ DEPONENT WHO WAS SIGNED IN THE PRESENCE OF

True copy

Annexure R-4

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WP(C) No. 494/12 etc.etc.

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ITEM NO. 801

COURT NO. 1

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s) 494/2012

JUSTICE K.S. PUTTASWAMY (RETD) & ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With office report)

WITH

T.C. (C) No. 151/2013

(With appln.(s) for impleadment as party respondent and for modification of court's order and Office Report)

T.C. (C) No. 152/2013

(With Office Report)

W.P. (C) No. 829/2013

(With appln.(s) for interim relief and appln.(s) for impleadment/directions and appln.(s) for impleadment and appln.(s) for impleadment and appln.(s) for impleadment and Office Report)

W.P. (C) No. 833/2013

(With (With (With (With (With (With appln.(s) for directions and appln.(s) for impleadment and appln.(s) for impleadment and appln.(s) for bringing on record additional documents and appln.(s) for impleadment and appln.(s) for permission to file additional documents and Office Report)

W.P. (C) No. 932/2013

(With (With (With appln.(s) for directions and appln.(s) for clarification of court's order and appln.(s) for interim directions and Office Report)

T.P. (C) No. 312/2014

(With Office Report)

T.P. (C) No. 313/2014

(With Office Report)

W.P. (C) No. 37/2015

(With (With (With (With (With appln.(s) for impleadment and appln.(s) for directions and appln.(s) for permission to file additional documents and appln.(s) for interim stay and appln.(s) for permission to file additional documents and Office Report)

W.P. (C) No. 220/2015

(With appln.(s) for directions and Office Report)

Signature Not Verified
P. (C) No. 921/2015

Office Report)

CONMT. PET. (C) No. 144/2014 In W.P. (C) No. 494/2012

(With (With appln.(s) for directions and appln.(s) for directions and Office Report)

CONMT. PET. (C) No. 470/2015 In W.P. (C) No. 494/2012

(With appln.(s) for exemption from filing O.T. and Office Report)

SLP(Crl) No. 2524/2014

Office Report)

CONMT.PET.(C) No. 674/2015 In W.P.(C) No. 829/2013

Office Report)

Date : 05/01/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. Shyam Divan, Sp. Adv. (Mentioned by)
Mr. Pratap Venugopal, Adv.
Mr. Udayaditya Banerjee, Adv.
Ms. Niharika, Adv.
Ms. Kanika Kalaiyarasan, Adv.
Mr. Aman Shukla, Adv.
Mr. Anish Kumar Gupta, Adv.

For Respondent(s) Mr. R.K. Verma, Adv.
Mr. S. Sharma, Adv.
Ms. Anil Katiyar, AOR

Upon hearing the counsel the Court made the following
O R D E R

Declined for immediate hearing for the time being.

(SATISH KUMAR YADAV)
AR-CUM-PS

(RENUKA SADANA)
ASSISTANT REGISTRAR

True Copy

LIST OF PENDING CASES ON AADHAAR IN THE SUPREME COURT

1. Connected Cases pending on identical issues of constitutional and legal challenge to the Aadhar Scheme on the grounds of violation of fundamental right to privacy. This Hon'ble vide its order dated 11.08.2015 has referred the matter to a Constitution bench of appropriate strength since the matter involved substantial questions of law as to the interpretation of the Constitution w.r.t. Right to Privacy. The following are the connected cases
 - i. **Justice K. S. Puttaswamy (Retd) & Anr v. Union of India & ors**
W.P. (C) 494 / 2012 and connected cases
 - ii. W.P. (C) 829 / 2013;
 - iii. W.P. (C) 932 / 2013;
 - iv. T.C. (C) 152/ 2013;
 - v. T.C. (C) 151/ 2013;
 - vi. W.P. (C) 833/ 2013
 - vii. T.P.(C)312/2014
 - viii. T.P.(C) 313/2014
 - ix. W.P.(C) 37/2015
 - x. W.P.(C) 220/2015
 - xi. T.P.(C) 921/2015
 - xii. CONMT.PET.(C) 144/2014 In W.P.(C) 494/2012
 - xiii. CONMT.PET.(C) 470/2015 In W.P.(C) 494/2012
 - xiv. CONMT.PET.(C) 674/2015 In W.P.(C) No. 829/2013
2. The challenge to the Aadhaar (Targeted Delivery Of Financial And Other Subsidies, Benefits And Services) Act, 2016 is also pending before this Hon'ble Court in W P (C) No 797/2016 (**S.G. Vombatkere And Anr.v. Union Of India And Anr.**) This Hon'ble Court had issued rule in the matter on 28.10.2016 and tagged it with WP (C) No. 494/2012 and connected matters referring the adjudication of the cases by a larger bench of the Hon'ble Supreme Court. No interim relief was granted.
3. Another writ petition being W.P. (C) No 231/2016, i.e. **Jairam Ramesh v. Union of India and Ors.** Challenging the procedure by which the Aadhaar Act, 2016 was passed as a Money Bill under Article 109 and 110 of the Constitution is also pending in this Court and the matter has been heard on more than one occasion in extensor but no notice has yet been issued.

I. LIST OF PENDING CASES ON AADHAAR IN THE SUPREME COURT

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- ii. W.P. (C) 829 / 2013;
- iii. W.P. (C) 932 / 2013;
- iv. T.C. (C) 152/ 2013;
- v. T.C. (C) 151/ 2013;
- vi. W.P. (C) 833/ 2013
- vii. T.P.(C)312/2014
- viii. T.P.(C) 313/2014
- ix. W.P.(C) 37/2015
- x. W.P.(C) 220/2015
- xi. T.P.(C) 921/2015
- xii. CONMT.PET.(C) 144/2014 In W.P.(C) 494/2012
- xiii. CONMT.PET.(C) 470/2015 In W.P.(C) 494/2012
- xiv. CONMT.PET.(C) 674/2015 In W.P.(C) No. 829/2013

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4. Cases challenging inclusion of Aadhaar into PAN by Finance Act, 2017

- a. Writ Petition (Civil) 247/2017 - **Binoy Visman vs Union Of India And Ors**
- b. Writ Petition (Civil) 277/2017 **S.G. Vombatkere And Anr vs Union Of India And Ors**

is a challenge to Section 139AA of the Income Tax Act introduced by way of the Finance Bill, 2017 which requires Aadhaar to be linked with PAN for filing income tax returns. This case was heard and Judgment reserved but no interim order passed.

5. The present writ petition is identical to the challenge made in in W P (C) No 797/2016 (**S.G. Vombatkere And Anr.v. Union Of India And Anr** which challenges the Aadhaar (Targeted Delivery Of Financial And Other Subsidies, Benefits And Services) Act, 2016 on the following, inter alia, grounds:

- a. Impugned Act cannot be characterized as a Money Bill.
- b. Impugned Act is contrary to the concept of "Limited Government".
- c. Impugned Act coerces individuals to part with their personal information.
- d. Impugned Act validates a scheme which leads to exclusion rather than inclusion of individuals.
- e. Impugned Act creates an environment which can be used for surveillance and mainly seeks inter alia, the following prayers: @ P. 71-77:
 - i. To Declare Aadhaar Act null and void in violation of Articles 14, 19 and 21 of the Constitution;
 - ii. To declare notifications under Section 7 of the Aadhaar Act as unconstitutional;
 - iii. To declare the right to privacy as a fundamental right;
 - iv. To stop further enrolments;
 - v. To direct the Respondents to affirm on affidavit that no data collected under Aadhaar scheme has been transmitted outside India.

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a (2) Where it is intended to slaughter a cow for the reasons specified in clause (a) or clause (b) of sub-section (1) it shall be incumbent for a person doing so to obtain a prior permission in writing of the Veterinary Officer of the area or such other Officer of the Animal Husbandry Department as may be prescribed."

23. The expression "slaughter" is defined in Section 2(e) of the Act, which is as follows:

b "2. (e) 'slaughter' means killing by any method whatsoever and includes maiming and inflicting of physical injury which in the ordinary course will cause death;"

c 24. If we read Section 3 and Section 4 together, it is clear that the person contravening Section 3 cannot put up a defence that the act of slaughter was being done in a place, of which he is not the owner or in respect of which he does not have the conscious possession. Slaughter of cows, subject to exceptions under Section 4, in any place, is prohibited under Section 3 and penalty for doing so is provided under Section 8.

d 25. The High Court's finding that the guilt of the accused persons has not been proved in the absence of proof of their ownership or conscious possession of the house where slaughter took place, is a finding which is de hors the said Act and is clearly not legally sustainable. Slaughter of the cows is clearly prohibited under Section 3, subject to the exceptions in Section 4. The case of the accused persons is not covered under the exceptions in Section 4. No such defence was ever taken.

e 26. Therefore the impugned order of the High Court is, with respect, legally not sustainable. We, therefore, are unable to accept the reasons of the High Court. The appeal is allowed. The order of the High Court is set aside and that of the learned Sessions Judge is affirmed.

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(Record of Proceedings)

(BEFORE DR DALVEER BHANDARI AND DEEPAK VERMA, JJ.)

f PEOPLE'S UNION FOR CIVIL LIBERTIES
(PDS MATTERS)

Petitioner;

Versus

UNION OF INDIA AND OTHERS

Respondents.

g Writ Petition (C) No. 196 of 2001 with IAs Nos. 90, 93, 98, 102-08, 110-12 in WP (C) No. 196 of 2001, Contempt Petition (C) No. 99 of 2009 with WP (C) No. 277 of 2010, decided on September 14, 2011

h Constitution of India — Arts. 21 and 32 — Public Distribution System (PDS) — Transparency of delivery and management system — Recommendations of High-Powered Committee (HPC) on computerisation of PDS — Time-bound action plan to be prepared by State Governments for complete computerisation of PDS system within three months' time — Central and State Governments directed to file replies — Other directions issued — Significant recommendations of HPC being the following:

(i) dissemination of information about availability of foodgrains through SMS to be made to pre-identified individuals in local community; (ii) necessity of citizen participation for social audit in ensuring effectiveness of system; (iii) single unified information system be developed to meet abovementioned requirements; (iv) Government of India to ensure necessary infrastructure and financial support; (v) State Governments to link process of computerisation with Aadhar/Unique Identification Number (UID) registration; (vi) an effective grievance redressal mechanism to be strictly enforced based on SMS/email and other suitable technology; (vii) a four digit toll free number to be established for grievance registration and redressal thereof; (viii) digitised database of ration cards be put up in public domain including on websites — Central Government agreeing to all recommendations in principle

J-D/48993/S

Advocates who appeared in this case :

Colin Gonsalves, Senior Advocate (Divya Jyoti and Ms Jyoti Mendiratta, Advocates) for the Petitioner; Mohan Parasaran, Additional Solicitor General (D.L. Chidananda, S. Wasim A. Qadri, A. Dev Kumar, Ms Sunita Sharma, Ms Sushma Suri, Ms Anil Katiyar, Ms Supriya Jain, D.S. Mahra and Sudarshan Singh Rawat, Advocates) for the Respondents; H.P. Raval, Additional Solicitor General; Dr Manish Singhvi, Additional Advocate General (Rajasthan); A. Mariarputham, Advocate General, R. Sundaravardhan and Pramod Swaroop, Senior Advocates [Vishnu B. Saharya (for M/s Saharya & Co.), Jana Kalyan Das, Ranjan Mukherjee, S.C. Ghosh, Ms Hemantika Wahi, Ms Suveni Banerjee, D.K. Goswami, Shirish Kr. Mishra, Pragyan P. Sharma, Siddhartha Lodha, (for P.V. Yogeswaran), Ms Indra Sawhney, Devanshu Kr. Devesh, Irshad Ahmad, Milind Kumar, Ms Aruna Mathur, Avneesh Arputham, Yusuf Khan (for M/s Arputham Aruna & Co.), Riku Sarma, Navnit Kumar (for M/s Corporate Law Group), Ms Rachana Srivastava, Ranchi Daga, Krutin Joshi, Manoj Saxena, Mayank Nigam, T.V. George, Ms Kamini Jaiswal, Shish Pal Laler, Kh. Nobin Singh, Sapam Biswajit Meitei, Ranjan Mukherjee, Jatinder Kr. Bhatia, V.G. Pragasam, S.J. Aristotle, Prabu Ramasubramanian, G.V. Rao, Ravi Prakash Mehrotra, Gopal Singh, Manish Kumar, Chandan Kumar, Bikas Kar Gupta, Abhijit Sengupta, Rituraj Biswas, Manish Pitale, Wasi Haider (for C.S. Ashri), Soumitra G. Chaudhuri, Tara Chandra Sharma, Anil Shrivastav, Edward Belho, P. Athuimei R. Naga, K. Enatoli Sema, Nimshim Vashum, T. Harish Kumar, V. Vasudevan, Sanjiv Sen, Prashant Kumar, P. Parameswaran, Ujjal Banerjee, Atul Jha, D.K. Sinha, G.V. Chandrashekhkar, N.K. Verma, Ms Anjana Chandrashekar, Gopal Prasad, Sarbojit Dutta, D. Mahesh Babu, Ramesh Allanki, Savita Dhande, V. Pattabhi, Sunil Fernandes, Suhaas Joshi, Ms Astha Sharma, Ramesh Babu M.R., Ms Anuradha Rustagi, Ms D. Bharati Reddy, Sanjay R. Hegde, Ramesh Kr. Mishra, Ms Sumita Hazarika, K.K. Mahalik, Ajay Pal, Manjit Singh, Kamal Mohan Gupta, Ms A. Subhashini, Gopal Singh, Kuldip Singh, R.K. Pandey, H.S. Sandhu, K.K. Pandey, Mohit Mudgil, Ravindra Keshavrao Adsure, Ms Bina Madhavan, Vishwajit Singh, Sanjay V. Kharde, Ms Asha G. Nair, K.V. Mohan, Rajesh Srivastava, Ms Promila, S. Thananjayan, Anuvrat Sharma, K.N. Madhusoodhanan, R. Sathish, Naushad Ahmad Khan, Rajesh Kr. Verma (for R.C. Kaushik), Pradeep Misra, Venkateswara Rao Anumolu, Bikas Upadhyay, B.S. Banthia, Dr Aman Hingorani, Ms Priya Hingorani, G. Prakash, Ms Beena Prakash, V. Senthil, Navneet Kumar, Anil Kr. Jha, Vikas Mehta, Raj Kr. Gupta, Rajiv Dubey, Kamalendra Mishra, Naresh K. Sharma, Anis Suhrawardy, Shivaji M. Jadhav, Suresh Chandra Tripathy and Navin R. Nath. Advocates] for the DDA.

ORDER

1. The High-Powered Committee headed by Justice D.P. Wadhwa,
 - a Retired Judge of this Court, has submitted a preliminary report on the computerisation of public distribution system. In the recommendations of the report it is mentioned that computerisation of PDS consists of primarily three components i.e. creating an updating beneficiary database, stock management from FCI till FPS and sale of commodities at fair price shops. In order to make PDS effective it is important that the delivery and
 - b management system is transparent. The citizen participation for social audit can play a crucial role in ensuring effectiveness of the system.
2. In order to implement this system across the country, the following actions are suggested by the Committee:
 1. End-to-end computerisation of PDS may be considered in two parts and following prioritisation of the implementation strategy may be
 - c followed:
 - Component I:* Diversions, leakages, delays in allocation and transportation, inappropriate distribution of foodgrains to fair price shops go unchecked because of lack of visibility of this information in the public domain.
 - d Computerisation of complete supply chain management up to the shop level and availability of this information on a transparency portal in public domain is to be accorded the highest priority. The portal should have different dashboards catering to the information needs of all the stakeholders.
 - Component II:* Electronic authentication of delivery and
 - e payments at the fair price shop level. In order to ensure that each card-holder is getting his due entitlement, computerisation has to reach literally every doorstep and this could take long. Moreover, several States have already started implementing smart cards, food coupons, etc. which have not been entirely successful. Reengineering these legacy systems and replacing it with the online Aadhaar
 - f authentication at the time of foodgrain delivery will take time. This is therefore proposed as Component II.
 2. The Department of Food and Public Distribution is directed to immediately issue guidelines to all the States for end-to-end computerisation of TPDS.
 3. The Government of India shall ensure that the State Governments
 - g prepare a time-bound action plan for completing the process of computerisation. This action plan will be implemented keeping the timelines in mind and will be regularly submitted before the Hon'ble Supreme Court.
 4. The States/UTs should take up end-to-end computerisation of
 - h TPDS as a top priority and should appoint a dedicated nodal officer to monitor the projects related to TPDS computerisation.

5. The States/UTs may be encouraged to include the PDS related KYR+ field in the data collection exercise being undertaken by various Registrars across the country as part of the UID (Aadhaar) enrolment. a

6. Digitisation of beneficiary data and a centralised database with clear process of data updation to be put in place by the States in a time-bound manner.

7. Dissemination of information about availability of foodgrains through SMS to the pre-identified individuals in the local community to enable social audit. The system could also provide stock position at a specific location on demand. The information related to stock availability using latest technological interface should be made available in a public domain. b

8. Single unified information system should be developed to meet the abovementioned requirements that would help to achieve certain basic level of transparency in PDS. For this the States should arrange training programs for field functionaries and FP dealers. c

9. Chhattisgarh model of computerisation for PDS system (a note on the computerisation of PDS in the State of Chhattisgarh is annexed hereto as Annexure II) which primarily caters to the computerisation up to the shop level was also deliberated upon and discussed by the HPC. It was decided that the Chhattisgarh model may be adopted for Component 1 and Component 2 may be done on the similar lines of the Gujarat model of computerisation. The Chhattisgarh model may be implemented in all the States within a maximum period of three months. However, some State Governments like the Government of Gujarat which is following Component 2, or other States which may be at the advanced stage of following some other model, such States may continue to follow the same so long as it is fulfilling the end objectives of completing the computerisation. (A note on the computerisation of PDS in the State of Gujarat is annexed hereto as Annexure III.) d

10. As the process of end-to-end computerisation is expected to be a sizable exercise, to complete it in a mission mode, a separate and dedicated institutional mechanism is to be incorporated to look after the progress of computerisation of PDS. This institution must have active participation of all stake-holders including the State Governments. As PDS is implemented by the State by the State Governments and supported by the Government of India, role of the State Government in this body will be helpful in getting required support from the State Governments. e

11. Information related to stock availability, movement and date (*sic* datewise) quantity of stocks supplied to FPS should be made available in public domain by using latest technological interface like SMSs/website or other means. f

12. As far as possible, the State Governments should be directed to link the process of computerisation of Component 2 with Aadhar g

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a registration. This will help in streamlining the process of biometric collection as well as authentication. The States/UTs may be encouraged to include the PDS related KYR+ field in the data collection exercise being undertaken by various Registrars across the country as part of the UID (Aadhar) enrolment.

b 13. An effective grievance redressal mechanism should be strictly enforced based on SMS/email and other suitable technology. The Government of India should ensure that this mechanism is put in place in all the States. The States/UTs should create effective grievance redressal mechanism where use of mobile based SMS/email can be used for timely resolution of the citizen/beneficiary grievance. A four digit toll free number may be established in all the States for grievances registration and redressal thereof.

c 14. The Government of India will ensure that the computerisation operation is provided necessary infrastructure and financial support. This needs to be completed in a time-bound manner and the institution mechanism so created shall be completely responsible for meeting the timelines. The Government of India with the help of the State Government will ensure that the institution has sufficient infrastructure and finances to complete the computerisation in a time-bound manner.

d 15. While this complete process is expected to take some time, in the meantime, following action may immediately be taken:

(a) The State Governments will ensure doorstep delivery of foodgrain for the ration shops in a time-bound manner and shall ensure that information related to movement and availability of foodgrain is available in public domain.

e (b) A PDS public information portal may be made which will have information related to complete public distribution system. In addition to other information, it should also have the information of date and quantity of foodgrain supplied to the fair price shop every month for all the shops.

f (c) The digitised database of ration cards will be put up in the public domain including on the websites.

(d) The State should make necessary amendments to make the fair price shop financially viable.

(e) A four digit toll free number may be established in all the States for grievances registration and redressal thereof.

g (f) All the State Governments will ensure that required allocation reaches the fair price shop before the 1st day of the month and this information should be available on the transparency portal.

h (g) A drive can be started to eliminate the fake and ghost ration cards. A comparison with data available with other departments like election, census, etc. gives the quick estimates about the bogus cards. It was seen that at some places, units in the ration cards exceed even the population of the area. These practices should be checked

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immediately. This can also be linked up with the socio-economic census in rural areas which is expected to be completed shortly within this year itself.

(h) The Government of India shall ensure that all the State Governments prepare a time-bound action plan for complete computerisation of PDS system within three months' time. Strict deadlines may be fixed in the action plan and these will be submitted before the Hon'ble Supreme Court within three months' period.

(i) All above steps may be completed within three months' time.

3. We have discussed the recommendations of the High-Powered Committee on computerisation with the learned counsel for the petitioner and the learned Additional Solicitor General of India. The Government of India has agreed in principle to implement these recommendations as expeditiously as possible. We request Mr Parasaran, learned Additional Solicitor General to ensure that the process of computerisation is completed as expeditiously as possible. He may help in coordinating with the High-Powered Committee and other authorities concerned and individuals.

4. We direct the Chief Secretaries of various States to indicate, within two weeks, as to how much additional foodgrains are required for the poorest districts in their States and allocation of foodgrains would be made within two weeks thereafter. We further direct the Chief Secretaries to ensure that whatever foodgrains are allocated, the same be lifted by them within two weeks thereafter. The allocation of foodgrains to be made out of five million tonnes additionally allocated.

5. We request the High-Powered Committee to hear all the parties and decide whether the foodgrains are required to be distributed at AAY rates or BPL rates and the decision of the High-Powered Committee would be binding on all concerned and would be implemented forthwith.

6. We request the High-Powered Committee to decide this issue as expeditiously as possible and we direct the parties to appear before the High-Powered Committee on 20-9-2011. In case the Chief Secretaries of various States do not respond within two weeks, as directed above, it would be presumed that, that particular State does not require additional foodgrains at AAY or BPL rates.

7. The learned counsel appearing on behalf of the Planning Commission submits that the affidavit to be filed in pursuance of the directions of this Court, has gone to the office of the Prime Minister for vetting and the same would be filed within a week. Reply to that affidavit, if any, be filed within one week thereafter.

8. All those States who have not filed their affidavits may file the same within two weeks from today.

9. List this matter for further directions on 11-10-2011.

Court Masters

Take Copy

MANU/SC/0110/2013

Equivalent Citation: 2013II AD (S.C.) 658, AIR2013SC1254, 2013(1)J.L.J.R.392, JT2013(3)SC451, 2013 (1) KHC 508, 2013(1)KLT532, 2013LabIC1637, 2013(2)PLJR100, 2013(2)SCALE265, (2013)2SCC705, (2013)2SCC(LS)444, [2013]4SCR66, 2013(2)SCT228(SC)

IN THE SUPREME COURT OF INDIA

Civil Appeal No. 958 of 2013 (Arising out of SLP (C) No. 9162 of 2011)

Decided On: 06.02.2013

Appellants: **State of Kerala and Ors.**

Vs.

Respondent: **President, Parent Teacher Assn. SNVUP and Ors.****Hon'ble Judges/Coram:***K.S. Panicker Radhakrishnan and Dipak Misra, JJ.***Counsels:***For Appellant/Petitioner/Plaintiff: Sana Hashmi, Philip Mathew and Liz Mathew, Advs.**For Respondents/Defendant: P.A. Noor Muhamed and Giffara S., Advs.***JUDGMENT****K.S. Panicker Radhakrishnan, J.****1. Leave granted.**

2. We are in this appeal concerned with the question whether the High Court was justified in directing the Secretary, General Education Department of the State of Kerala to get the verification of the actual students' strength in all the aided schools in the State with the assistance of the police and to take appropriate action.

3. The Assistant Educational Officer (AEO), Valappad had fixed the staff strength of S.N.V.U.P. School, Thalikulam for the year 2008-09 based on the visit report of High School Association (SS), GHS Kodakara as per Rule 12 of Chapter XXIII of Kerala Education Rules (KER). Later, based on a complaint regarding bogus admissions and irregular fixation of staff for the year 2008-09 by the AEO, the Super Check Cell, Malabar Region, Kozhikode made a surprise visit in the school on 17.09.2008 and physically verified the strength of the students and noticed undue shortage of attendance on that day. The strength verified by the Super Check Cell was not sufficient for allowing the divisions and posts sanctioned by the AEO. The Head Master of the School, however, stated in writing that the shortfall of attendance on the day of inspection was due to "Badar Day" of Muslim community and due to distribution of rice consequent to that. In order to confirm the genuineness of the facts stated by the Head Master, the Cell again visited the school on 16.12.2008. Verification could not be done on that day, hence the Cell again visited the school on 02.02.2009 and physically verified the students' strength. On that day also, there were large number of absentees as noticed on 17.09.2008. On verification of attendance register, it was found that the class teachers of respective classes had given bogus presence to all students on almost all the days. Enquiry revealed that the school authorities had obtained the staff fixation order for the year 2008-09 through bogus recordal admissions.

4. The Director of Public Instructions (DPI), Thiruvananthapuram consequently issued a notice dated 07.05.2009 to the Manager of the School of his proposal to revise roll strength and revision of staff strength by reducing one division each in Std. I, II, IV to VII and 2 divisions in Std. III and consequent posts of 5 LPSAs, 3 UPSAs in the school during the year 2008-09. The Manager of the school responded to the notice vide representation dated 27.05.2009 stating that Super Check Officials did not record the attendance particulars of the students in the visit record and had tampered with the attendance register. The Manager had also pointed out that the Headmaster was not responsible to compensate the loss suffered by the Department by way of paying salary to the teachers who had worked in the sanctioned posts. Further, it was also pointed out that the staff fixation should not be done within the academic year and re-fixation was not permissible as per Rule 12E(3) read with Rule 16 of Chapter XXIII, KER and requested not to reduce the class divisions.

5. The DPI elaborately heard the lawyers appearing for the Headmaster and the Manager of the school, affected teachers as well as the officials of the Super Check Cell. Having heard the submissions made and perusing the records made available, the DPI found that the staff fixation of the school for the year 2008-09 was obtained through bogus admissions and misrepresentation of facts. DPI noticed that the roll strength during the year 2008-09 was 1196. There were 404 absentees on the first visit of the Cell on 17.09.2008. The Super Check Cell again visited the school on 16.12.2008 and 02.02.2009 and it was found that among 404 students absent on the first day, 179 names were bogus and irregular retentions. The physical presence

of 179 students could not be verified on all the three occasions. DPI, therefore, passed an order revising the staff fixation of the school for the year 2008-09 as per Rule 12(3) read with Rule 16 of Chapter XXIII of KER. Consequently, the total number of divisions in the school was reduced to 23 from 31. In the Order dated 08.09.2009, the DIP had stated as follows:

The Headmaster is responsible for the admission, removals, and maintenance of records and for the supervision of work of subordinates. It is the duty of the verification officer to verify the strength correctly and to unearth the irregularities. Due to the irregular fixation of staff, the State exchequer has incurred additional and unnecessary expenditure by way of pay and allowances for 8 teachers and expenditure incurred in connection with payment of various scholarships, lump-sum grant, noon-feeding, free books etc to the bogus students. These loss sustained to the Government will be recovered from the Headmaster of the school who alone is responsible for all the above irregularities.

6. The DPI also directed to take further action to fix the liabilities and recover the amount from the Headmaster under intimation to DPI and the Super Check Officer, Kozhikode. The Headmaster and Manager of the school, aggrieved by the above-mentioned order, filed a revision petition before the State Government. The High Court vide its judgment dated 7.12.2009 in Writ Petition (C) No. 35135 of 2009 directed the State Government to dispose of the revision petition.

7. The higher level verification was also conducted in the school with regard to the staff fixation for the year 2009-10 and on verification, it was found that many of the students in the school records were only bogus recordal admissions. Following that, the AEO issued staff fixation order for the year 2009-10 vide proceedings dated 27.03.2010.

8. Meanwhile, the President of the Parent Teachers Association (Respondent No. 1 herein) filed WP (C) No. 12285 of 2010 before the High Court seeking a direction to the AEO to reckon the entire students present in the school on the 6th working day and higher level verification of District Education Officer (DEO) on 13.01.2010 for the purpose of staff fixation for the year 2009-10 and also for a declaration that the exclusion of the students who were present on the day of higher level verification on 13.01.2010 from the staff fixation order 2009-10 was illegal and also for other consequential reliefs.

9. Learned Single Judge of the High Court dismissed the Writ Petition on 07.04.2010 stating that the Parent Teachers Association have no locus standi in challenging the staff fixation order. The judgment was challenged in W.A. No. 1195 of 2010 by the President, Parent Teachers Association before the Division Bench of the High Court and the Bench passed an interim order on 14.07.2010. The operative portion of the same reads as follows:

The inspection team has recorded that as many as 179 students whose names and particulars are furnished, represent bogus admissions for record purposes. If admission register is manipulated by recording bogus admissions in the name of non-existing students or students of other institutions, we fell criminal action also is called for against the school authorities. Since Appellant has denied the findings in the inspection report, we fell a police enquiry is called for the in the matter. We, therefore, direct the Superintendent of Police, Thrissur to constitute a team of Police Officers to go through Ext.P1, verify the registered maintained by the school authorities, take the addresses as shown in the school records and conduct field enquiry as to whether the students are real persons and if so, whether they are really studying in this school or elsewhere. In other words, the result of the enquiry is to confirm to this Court whether the students whose names are in the record of the school are real and if so, whether they are students in this school or any other school.

The Bench also directed to the Superintendent of Police to submit his report within one month.

10. The Superintendent of Police, following the direction given by the High Court, constituted a team under the leadership of the Circle Inspector of Police, Valappad and the team conducted detailed enquiry in respect of all the matters directed to be examined by the police. The Superintendent of Police submitted the report dated 20.09.2010 which reads as follows:

On the enquiry about the 187 students (179+8) which were alleged as bogus admissions as per Ext.P1, it is revealed that only 72 students were studied in S.N.V.U.P. School during the period 2008-09 and 80 students were studied in some other schools. The addresses of 23 students have not been traced out even with the help of postman of the concerned area. On the enquiry it is also revealed that 4 students vide the admission Nos. 13008, 11875, 12883 and 13876 mentioned in Ext.P1, have not been studied anywhere during that period.

The details of the 187 students, revealed in the enquiry are mentioned below:

1. Actual No. of students studied in SNVUP School, Thalikulam during 2008-2009

2. No. of Students studied in some other schools
80

3. No. of students whose address
have not been trace out 23

4. No. of students have not been studied
anywhere 04

5. No. of students removed from the rolls.
Immediately after strength inspection
08

Total 187

The report of the enquiry, submitted by the Circle Inspector of Police, Valappad showing the details of each students is also produced herewith.

11. The Division Bench of the High Court after perusing the report submitted by the Superintendent of Police found that neither the finding of the DPI based on inspections by Super Check Cell nor the claim of the Parent Teachers Association was correct since the police had found that at least 72 out of 187 students declared bogus by the DPI were real students of the school. The High Court, therefore, concluded manipulation by the school management was obvious, though not to the extent found by the Super Check Cell based on which DPI had passed the impugned order. The Division Bench expressed anguish that the management had included 80 students studying in other schools as students of the present school. It was also noticed that as many as 23 students could not be traced by the police with the help of the postman, were also included in the register.

12. The Division Bench concluded that since the Super Check Cell, the Education Department lacked the investigating skill or the authority to collect information from the field, it would be appropriate that the verification of actual students in all the aided schools in the State would be done through the police. Holding so, the High Court gave the following direction:

We, therefore, feel as in this case Police should be entrusted to assist the Education Department by conducting enquiry about the actual and real students studying in every aided school in the State and pass on the same to the Education Department for them to fix or re-fix the staff strength based on the data furnished by the Police. We, therefore, direct the Secretary, Department of Education, to get verification of the actual students studying in all the aided schools in the State done through the police authorities and take appropriate action. It would be open to the Government to consider photo or finger identification of the students for avoiding manipulation in the school registers. The Government is directed to complete the process by the end of this academic year and file a report in this Court.

13. The State of Kerala, aggrieved by the various directions given by the Division Bench, has preferred this appeal. Ms. Liz Mathew, Learned Counsel appearing for the State of Kerala submitted that the High Court was not justified in giving a direction to the Secretary, Education Department in entrusting the task to State Police for verification of actual students' strength in all the aided schools, while the enquiry is being conducted by the Education Department. Learned Counsel submitted that Kerala Education Act and Rules did not prescribe any mechanism for conducting enquiries by the police at the time of staff fixation. The method to be adopted in the fixation of staff in various schools is prescribed under Chapter XXIII of KER and police have no role. The Rules empower the AEO, the DEO and the Super Check Cell etc. to conduct enquiries but not by the police. Learned Counsel also pointed out that the presence of the police personnel in the aided schools in the States would not only cause embarrassment to the students studying in the school but would also cast wrong impression on the minds of the students about the conduct of their Headmaster, teachers and staff of the school.

14. We notice that the State itself had admitted in the petition that there should be a better mechanism to ascertain the number of students in the aided schools which could be done by finger printing or any other modern system so that the students could be properly identified and staff fixation could be done on the basis of relevant data. We, therefore, directed the State to evolve a better mechanism to overcome situations like the one which has occurred in the school. Fact finding authorities have categorically found that the school authorities had made bogus admissions and made wrong recording of attendance which led to the irregular and illegal fixation of staff strength of the school for the years 2008-09 and 2009-10.

15. An additional affidavit has been filed by the State of Kerala stating that the Government after much thought and deliberations formulated a scientific method to resolve the issue emanating from staff fixation orders every year. The affidavit says that the number of students in the school can be determined through Unique Identification Card (UID) technology and the number of divisions could be arrived at on the basis of revised pupil teacher ratio. Further, it is also pointed out that after implementation of UID as a part of scientific package, the government will remand the matter of identification of bogus admission to the DPI for considering issues afresh after corroborating the findings of Super Check Cell with UID details of the students. The State has issued a circular No. NEP (3) 66183/2011 dated 12.10.2011 which, according to the State, would take care of such situations happening in various aided schools in the State.

16. We are of the view even though the Division Bench was not justified in directing police intervention, the situation that has unfolded in this case is the one that we get in many aided schools in the State. Many of the aided schools in the State, though not all, obtain staff fixation order through bogus admissions and misrepresentation of facts. Due to the irregular fixation of staff, the State exchequer incurs heavy financial burden by way of pay and allowances. The State has also to expend public money in connection with the payment of various scholarships, lump-sum grant, noon-feeding, free books etc. to the bogus students.

17. A great responsibility is, therefore, cast on the General Education Department to curb such menace which not only burden the State exchequer but also will give a wrong signal to the society at large. The Management and the Headmaster of the school should be a role model to the young students studying in their schools and if themselves indulge in such bogus admissions and record wrong attendance of students for unlawful gain, how they can imbibe the guidelines of honesty, truth and values in life to the students. We are, however, of the view that the investigation by the police with regard to the verification of the school admission, register etc., particularly with regard to the admissions of the students in the aided schools will give a wrong signal even to the students studying in the school and the presence of the police itself is not conducive to the academic atmosphere of the schools. In such circumstances, we are inclined to set aside the directions given by the Division Bench for police intervention for verification of the students' strength in all the aided schools.

18. We are, however, inclined to give a direction to the Education Department, State of Kerala to forthwith give effect to a circular dated 12.10.2011 to issue UID Card to all the school children and follow the guidelines and directions contained in their circular. Needless to say, the Government can always adopt, in future, better scientific methods to curb such types of bogus admissions in various aided schools.

19. We, however, find no reason to interfere with the direction given by the DPI to take further action to fix the liabilities for the irregularity committed in the school for the years 2008-09 and 2009-10, for which the appeal is pending before the State Government. The State Government will consider the appeal and take appropriate decision in accordance with law, if it is still pending. Appeal is allowed as above without any order as to costs.

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- a the Income Tax Act, 1961, on foreign salary payment as a component of the total salary paid to an expatriate working in India. This controversy came to an end vide judgment of this Court in *CIT v. Eli Lilly & Co. (India) (P) Ltd.*¹
- b The question on limitation has become academic in these cases because, even assuming that the Department is right on the issue of limitation still the question would arise whether on such debatable points, the assessee(s) could be declared as assessee(s) in default under Section 192 read with Section 201 of the Income Tax Act, 1961.
- c 4. Further, we are informed that the assessee(s) have paid the differential tax. They have paid the interest and they further undertake not to claim refund for the amounts paid. Before concluding, we may also state that, in *Eli Lilly & Co. (India) (P) Ltd.*¹ vide para 21, this Court has clarified that the law laid down in the said case was only applicable to the provisions of Section 192 of the Income Tax Act, 1961.
- c 5. Leaving the question of law open on limitation, these civil appeals filed by the Department are disposed of with no order as to costs.

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(Record of Proceedings)

d (BEFORE DALVEER BHANDARI AND MRS GYAN SUDHA MISRA, JJ.)

PEOPLE'S UNION FOR CIVIL LIBERTIES .. Petitioner;

Versus

UNION OF INDIA AND OTHERS .. Respondents.

e Writ Petition (C) No. 196 of 2001 with IAs Nos. 27-30, 33, 41-43, 45 (in IA No. 41), 46-47, 51-52, 55-57, 63-74, 76, 78-90, 92-94, 96, 98-99 in WP (C) No. 196 of 2001, Contempt Petition (C) No. 99 of 2009 in WP (C) No. 196 of 2001, decided on May 5, 2010

f A. Constitution of India — Arts. 21 and 32 — Shelter, Right to — Right to food, shelter and basic amenities — States of Gujarat, Tamil Nadu, Bihar and West Bengal not focusing on relevant issues or filing unsatisfactory affidavits, directed to file additional proper/satisfactory affidavits (Paras 15, 16, 43, 44, 54 and 61)

g B. Constitution of India — Arts. 21 and 32 — Problem of night shelter not being serious or not existing in States of Arunachal Pradesh, Andaman and Nicobar Islands, Manipur and Tripura, except in cities of Itanagar and Agartala — States of Arunachal Pradesh and Tripura directed to file affidavit regarding their cities Itanagar and Agartala, respectively (Paras, 13, 14, 41, 42, 64 and 65)

h C. Constitution of India — Arts. 21 and 32 — States of Rajasthan, Karnataka, Punjab and Meghalaya proposing to conduct comprehensive survey to identify homeless and/or provide night shelters to them — Progress report regarding provision of shelters directed to be filed within

¹ (2009) 15 SCC 1 : (2009) 312 ITR 225

stipulated time periods — State of Maharashtra directed to file a comprehensive report regarding problems of urban homeless within two months (Paras 11, 12, 34 to 40 and 66 and 67) a

D. Constitution of India — Arts. 21 and 32 — In view of satisfactory affidavits/steps taken/proposed to be taken by States of Mizoram, Uttarakhand, Kerala, Himachal Pradesh, Jharkhand, Sikkim, Puducherry and Chhattisgarh, no further directions given and/or no further affidavits required to be filed (Paras 10, 17 to 21, 24 to 29, 32, 33, 62 and 63)

E. Constitution of India — Arts. 21 and 32 — States of Assam, Nagaland, Uttar Pradesh, NCT of Delhi, Andhra Pradesh and Madhya Pradesh directed to file progress/status report/affidavits within stipulated time in view of proposed undertakings/proposals — Efforts of Delhi Government to minutely and carefully analyse problem of homeless people living in shelters and to provide them with a comprehensive programme for rehabilitation, appreciated — Efforts of State of Andhra Pradesh for filing comprehensive affidavit and demonstrating great sensitivity in dealing with the grave human problem and identifying a large number of areas to solve problems of urban families and others, appreciated — Other States directed to emulate sensitivity shown by State of Andhra Pradesh — Positive attitude of State of Madhya Pradesh, noticed (Paras 6 to 9, 22, 23, 30, 31, 45 to 51 and 55 to 58) b

F. Constitution of India — Arts. 21 and 32 — Six months' extension of term of Central Vigilance Committee appointed on Public Distribution System, directed (Paras 66 to 70) c

SS-D/46625/S

ORDER

1. In this writ petition, a report has been filed by the Commissioners in which it has been prayed that there is urgent need of night shelters in urban areas. In the report, it is prayed that the Centre and the State Governments be directed to provide permanent 24 hrs homeless shelters in the areas beginning with 62 cities and towns across India. In the report it is also mentioned that these homeless shelters need to be opened 24 hrs in all seasons, and should have basic amenities to enable a life with dignity. d

2. It is further incorporated in the report that winter is a period of severest crises for homeless people and it is directly life threatening, though all seasons pose threats to homeless people. Homeless people are subject to continuous violence and abuse. Living in the open with no privacy or protection even for women and children, is a gross denial of the right to live with dignity. For this reason the Commissioners are convinced that unless directions are given by this Court, the problems would not be solved. e

3. It is further stated in the report that the shelters should have the basic facilities, such as, beds and bedding, toilets, potable drinking water, lockers, first aid, primary health, de-addiction and recreation facilities. It is also mentioned that shelters must be in adequate numbers and in the ratio of at f

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least one per lakh of population for every urban centres according to the Delhi Master Plan.

- a 4. The matter was discussed and the learned Additional Solicitor General appearing for the Union of India submitted that all major cities, which have population of more than five lakhs, will be provided with night shelters in the ratio of at least one per lakh of population.

- b 5. This Court issued notice to all the States and the Union Territories. In response to the notice, most of the States and the Union Territories have filed affidavits and their responses are as under.

State of Madhya Pradesh

6. The State of Madhya Pradesh has agreed to construct one night shelter for a population of one lakh in all urban centres. Further it has been directed that:

- c (i) All local bodies within their territorial limits will construct night shelters for homeless people;
- (ii) Normally at least one night shelter in population of one lakh must be constructed and the homeless persons residing in the night shelters should be provided clean drinking water, light, toilet and provisions for their security;
- d (iii) During winter season proper arrangements may be made for fire with the funds of the local bodies and with the cooperation of the working social organisations blankets be also arranged for the persons staying in night shelters;
- e (iv) In coordination with the local health officer, urban bodies should make arrangements for investigation of health of all those poor persons staying in night shelters and will make arrangements for giving treatment in the government hospitals;
- (v) As per the requirement of security of the goods of the poor persons residing in the night shelters, locker facility should also be provided;
- f (vi) Separate place be provided for men and women in night shelters;
- (vii) At the local level all the urban bodies with the cooperation of the working social organisations should also make arrangements for the supply of food on reasonable rates to the poor persons residing in the night shelter;
- g (viii) The above arrangements may be immediately made in the night shelters which have been constructed earlier by the local bodies;
- (ix) The State Government has directed that within six months, the Commissioners of Municipal Corporations and the Chief Municipal Officer, Municipality should make a survey of the homeless.

- h 7. This affidavit filed by the State of Madhya Pradesh is very positive. We direct the State Government to start constructing night shelters for the homeless in a phased manner according to their affidavit and may submit the report in this Court within two months from today.

State of Nagaland

8. In the affidavit, which has been filed on behalf of the State of Nagaland, it is mentioned that the State Government proposes to conduct a detailed survey through its own department or by engaging reputed organisations/institutions within a period of six months for all urban areas within the State. It is also mentioned that depending upon the results of the detailed survey, shelter homes would be constructed in a phased manner as may be necessary. The shelter homes will have basic requirements necessary for providing safe, secure and comfortable shelter for the homeless. a

9. We expect the State of Nagaland to file an affidavit within a period of two months to ensure that entire programme is implemented. b

State of Mizoram

10. The State of Mizoram has stated in the affidavit that identification of urban homeless will be conducted in a comprehensive manner within six months and necessary facilities would be provided to the homeless in the shelters. In view of this affidavit, no further directions are warranted at this stage. c

State of Rajasthan

11. The learned Additional Advocate General appearing for the State of Rajasthan submits that formulation of the comprehensive policies would take about two months. d

12. We direct the Chief Secretary of the State of Rajasthan to file an affidavit within two months indicating the progress made by the State in respect of providing shelters to the homeless in accordance with the standard norms. e

State of Arunachal Pradesh

13. An affidavit has been filed by the State of Arunachal Pradesh indicating that the problem does not exist in the State except in Itanagar where the population is more than one lakh. It is mentioned in the affidavit that

“there is nobody who is homeless or orphan. In the event of death and demise of parents, village community takes over the responsibilities for the children leaving little or no scope for the destitution.” f

14. It is indeed a very happy situation in the State of Arunachal Pradesh but as regards Itanagar, an affidavit be filed within two months.

State of Gujarat

15. In the affidavit filed by the State of Gujarat, it is mentioned that in the State there are four cities with a population of more than five lakhs i.e. Ahmedabad, Vadodara, Rajkot and Surat. The affidavit is not clear about the issue, which this Court is dealing with. g

16. We direct the State of Gujarat to file an additional affidavit indicating within what period the State would be able to provide the shelters for homeless in the urban cities of Gujarat. h

State of Himachal Pradesh

- a 17. In the affidavit filed on behalf of the State of Himachal Pradesh, it is mentioned that only Shimla has a population of more than one lakh in the State. One night shelter, which is already in existence, is being renovated and necessary facilities would be provided in the night shelter.

18. Therefore, in view of this affidavit, at this stage no further directions are warranted so far as this State is concerned.

State of Uttarakhand

- b 19. It is mentioned in the affidavit that Dehradun, Haridwar and Haldwani have a population of more than one lakh. One night shelter is already in existence in Dehradun and two night shelters are there in Haridwar. Haldwani also has one night shelter. The State Government has issued directions to all the urban bodies to provide land free of cost for the establishment of additional night shelters in order to construct shelter for the entire shelterless people.

- c 20. In the affidavit it is also mentioned that the urban local bodies are also directed to submit proposal for the upgradation of existing night shelters basically for enhancing their accommodation capacities and to provide basic amenities, such as, blankets, potable drinking water, toilets, electricity connections, and regular health check-ups.

- d 21. In view of this affidavit, in our considered view, no further directions need to be issued as far as the State of Uttarakhand is concerned at this stage.

State of Assam

- e 22. In an additional affidavit filed on behalf of the State of Assam, it is mentioned that they will undertake the survey and engage reputed organisations/institutions for this purpose and on the basis of the survey, additional shelters would be created or the existing shelters will be upgraded in the phased manner, as may be necessary. The shelters will have the basic requirements necessary for providing safe, secure and comfortable shelter for the homeless.

- f 23. We direct that an affidavit be filed by the State of Assam within a period of two months indicating whether the process has started or not.

State of Kerala

- g 24. In the affidavit filed on behalf of the State of Kerala, it is mentioned that nine shelters for the homeless have been established in the nine districts of Kerala.

- h 25. In view of this affidavit, no further affidavit for the time being is required to be filed by this State.

State of Jharkhand

- h 26. In the affidavit filed by the State of Jharkhand, it is mentioned that the Government of Jharkhand is committed to provide all required amenities, including night shelters for urban shelterless people. It is further mentioned that out of 26 urban local bodies, shelters have been constructed in five cities, namely, Ranchi, Dhanbad, Chaibasa, Deogarh and Jasidih.

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27. In view of this affidavit, no further affidavit for the time being is required to be filed by this State.

State of Sikkim

28. It is mentioned that the problem of homeless does not exist in the entire State, but it is also incorporated in the affidavit that in case such need arises, other facilities like mattresses, quilts/blankets, drinking water and toilets, etc. would be provided.

29. In view of this affidavit, no further affidavit is required to be filed by the State of Sikkim.

State of Uttar Pradesh

30. In the affidavit, it is mentioned that there are seven permanent night shelters and one temporary night shelter in the State. It is also mentioned in the affidavit that it proposes to construct permanent shelter homes in six metropolitan cities, such as, Lucknow, Kanpur, Agra, Allahabad, Varanasi and Meerut. The land required for construction of these shelter homes shall be provided free of cost either by the Nagar Nigam or the Development Authority in each of the aforesaid six towns. The construction of such shelter homes shall be monitored at the local level by the Divisional Commissioner concerned. The financial requirement for implementing the aforesaid proposal shall be met by the State Urban Development agency.

31. In principle, the State has agreed to provide night shelters according to the norms only to evaluate the progress made in the matter. We would like the State to file an affidavit within a period of two months.

Union Territory of Puducherry

32. It is mentioned in the affidavit that so far 1102 tenements have been constructed in eight places in Puducherry. In these tenements 1102 homeless families have been provided with permanent shelters. Another 124 homeless families will be rehabilitated in 124 tenements, which are under construction.

33. In view of this affidavit, no further directions are necessary so far as the Union Territory of Puducherry is concerned.

State of Karnataka

34. The State of Karnataka has indicated in the affidavit that the State undertakes to conduct a comprehensive survey to identify the urban homeless within a period of six months. Based on the result of survey, necessary action will be taken to provide basic facilities so that people can enjoy the fundamental right of life with dignity.

35. We direct the State of Karnataka to file an affidavit about the progress of their survey within a period of two months from today.

State of Punjab

36. In the affidavit filed on behalf of the State of Punjab, it is mentioned that as regards the survey for identification of urban homeless, the Department of Urban Local Bodies and the Department of Rural Development and Panchayats have been directed to carry out the survey within two months. The Department of Urban Local Bodies will take action

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to provide night shelters and other services after the identification of homeless persons.

- a 37. The Department of Social Security and Women and Child Development will provide community kitchen at an appropriate scale as per the directions of this Court.

- b 38. The Department of Food, Civil Supplies and Consumer Affairs shall take action to issue AAY ration cards to the homeless population within one month after the completion of the identification subject to direction of this Court. The beneficiaries would be entitled to rations at the scale fixed by the Union Government by AAY families.

State of Meghalaya

- c 39. In the affidavit filed on behalf of the State of Meghalaya, it is mentioned that the State requires time to make survey of the shelterless population, including street children in the cities and two months' time has been prayed for this purpose by the learned counsel.

40. We direct the State of Meghalaya to file an affidavit within a period of two months indicating the progress in the matter.

Union Territory of Andaman and Nicobar Islands

- d 41. The problem of homeless and destitution is not a serious problem in the Islands. Therefore, no directions are necessary to be passed so far as the Union Territory of Andaman and Nicobar Islands is concerned.

State of Manipur

- e 42. Similarly, there is no existence of urban homeless people in this State. Therefore, no directions are necessary to be passed so far as this State is concerned.

State of Tamil Nadu

43. An affidavit, which has been filed by the State of Tamil Nadu, does not focus on the problems of the shelter for homeless people.

- f 44. We direct the State of Tamil Nadu to file an additional affidavit within a period of two months indicating as to what progress has been made in this regard by the State.

National Capital Territory of Delhi

- g 45. Mr Hansraj, Additional Secretary, Department of Urban Development, Government of National Capital Territory of Delhi, has filed a very comprehensive affidavit. In the affidavit it is mentioned that Government of National Capital Territory of Delhi is in the process of formulating a policy framework and plan for caring and protecting the rights of homeless citizens of Delhi.

- h 46. The Government of NCT of Delhi has established an autonomous body called "Samajik Suvidha Sangam" or "Mission Convergence" — a society registered under the Societies Registration Act to provide an institutional mechanism for unifying social policies impacting the poor and to integrate, establish, manage, operate, maintain and facilitate the integrated

delivery of welfare entitlements to the underprivileged in an efficient and transparent manner. All the details have been given on behalf of the autonomous organisation. It has also mentioned that St Stephen Hospital is the "Mother NGO" for homeless. This project is being run by the Community Health Department of St Stephen's Hospital. The "Mother NGO" in consultation with various stakeholders has submitted a report titled "Policy Framework and Plan for Caring and Protecting the Rights of Homeless Citizens of Delhi". A comprehensive annexure has also been filed giving details of these plans. a

47. It is also mentioned in the affidavit that "Mission Convergence" has initiated a survey of homeless and that the survey is currently in progress and the same is to be completed by 31-5-2010. Since the survey of homeless is a specialised work, interactive meetings are being held with an international group, namely, UNDP, Bangladesh to determine the methodologies of the homeless survey and to finalise the same. b

48. In the affidavit, it is mentioned that NGO, Samya had conducted survey and identified 15,000 homeless beneficiaries of which 14,850 which have been approved for giving "homeless cards". These cards are being prepared zonewise and the list is displayed at the office of the Assistant Commissioners/Circle Office for distribution of the special homeless cards to the beneficiaries after obtaining their biometric impressions. The NGO, Samya has also been informed to facilitate delivery of these cards to the beneficiaries and enable them to lift the specified food articles and kerosene oil allocated from the linked fair price shop/kerosene oil depot. The details have been mentioned in the AAY programme. c

49. It is mentioned in the affidavit that under the Central Scheme of Food and Supplies Department, Government of NCT of Delhi is carrying out review of BPL/AAY household cards which were issued before 15-1-2009. It is simultaneously carrying out biometric identification of head of family of each household to eliminate fictitious, bogus and ineligible cards and those who have left Delhi. d

50. The Government of NCT of Delhi has started "Hunger Free Delhi Campaign — Aap Ki Rasoi" with the active participation of corporate and willing organisation. This programme is to provide food to the destitute people. The affidavit also mentioned about the Mid-Day Meal programme. e

51. It is also mentioned in the affidavit that there is Sarva Shiksha Abhiyan for out of school children. f

52. Regarding the shelter for homeless, it is mentioned that currently Delhi has 88 night shelters. Most of these shelters are temporary and running in tents. The conditions of shelters need radical improvement. Looking to the population of Delhi, 130 permanent shelters are going to be set up. In addition to these, the Delhi Government proposes to set up 50 temporary shelters during winter months. In total, Delhi will have 186 shelters during winters and 130 shelters all through the year and all kinds of basic facilities g

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PEOPLE'S UNION FOR CIVIL LIBERTIES v. UNION OF INDIA

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would be provided in these shelters. They have made provisions for de-addiction centres and recovery shelters also.

- a **53.** The Delhi Government has very minutely and carefully analysed the problems of homeless people living in these shelters and is trying to provide a comprehensive programme for the homeless. We must compliment the Government of NCT of Delhi for this effort. We would like the Government of NCT of Delhi to file a further affidavit indicating what progress has been made on different fronts.

b *State of Bihar*

54. We are totally unsatisfied with the affidavit which has been filed by the Chief Secretary of the State of Bihar. The learned counsel appearing for the State prays for and is granted four weeks' time to file a proper affidavit. We would like an additional affidavit to be filed with concurrence of the Chief Minister of the State.

c *State of Andhra Pradesh*

- d **55.** An affidavit has also been filed by the State of Andhra Pradesh. The Chief Secretary, in the affidavit, has mentioned that the State of Andhra Pradesh has been one of the first States in the country to start a separate department for sustained effort for eradication of rural poverty called "Society for Elimination of Rural Poverty" which has formulated the Andhra Pradesh Rural Poverty Reduction Project for a focused approach for elimination of rural poverty. It is also mentioned that situation of urban poor living in slums requires special attention. Provision of pucca house for every homeless poor has been a pious purpose of the State Government.

- e **56.** Regarding night shelters, it is mentioned that there are 124 municipalities and municipal corporations in the State. Out of these, Hyderabad Urban Agglomeration is metro city with a population of more than 57 lakhs. A special action plan has been formulated for providing shelters to the homeless. Under this, more than one lakh houses are under construction. Apart from this, it has plan to start 60 night shelters at the rate of one for every one lakh population in the city of Hyderabad before 31-12-2010. These shelters would be fully occupied (*sic* equipped) with beds and boarding, drinking water, lockers, first aid, etc.

57. The following measures are taken for effective implementation of this initiative:

- g (i) Survey for identification of the shelterless people in the Greater Hyderabad is programmed to be taken up and completed by 31-5-2010.
- (ii) Sixty buildings and converting them for use as night shelters to the shelterless people will be done by 30-6-2010. If required, additional floors will be constructed to accommodate all the homeless.
- h (iii) Necessary facilities like arrangement of beds, blankets, clothing, etc. periodical medical health check-up and psychiatric care, provision of physical amenities and cooking facilities to be created in the identified night shelters by 30-6-2010.

(iv) With a view to promote self-sustenance and empowerment of the shelterless people, it is contemplated to provide suitable skill development trainings to them as a result of which they may get expected livelihood opportunities by October 2010. a

(v) The children of the shelterless, after their admission into the night shelter, will be referred for admission in the nearby schools for imparting elementary education by 30-6-2010.

(vi) The inmates of the night shelters, both men and women will be separately accommodated with a provision of privacy and amenities. The food arrangements as per the recommendations of the dietist will be provided for maintaining the nutritional balance of particularly the pregnant women and lactating mothers in the shelters. b

(vii) Sensitisation through publicity about existence of night shelters in electronic media and print media for information to the homeless people in the city is also taken up on priority. c

(viii) Corporate institutions and philanthropic agencies to be included in this activity for development of night shelters and services as part of their corporate social responsibility.

(ix) Launching of the enforcement drive so as to pick up the shelterless people from the highly concentrated areas i.e. railway terminals, bus terminals, busy commercial centres/markets, traffic junctions, traffic islands, footpaths, public parks, below flyovers, along nalas, freight complexes and workstations, etc. The GHMC staff and reputed NGOs for this purpose will be involved in the process. d

(x) A periodical vigilance and supervision of the maintenance and function of night shelters is much important with a view to secure the decency, maintenance of discipline. For this purpose an officer will be made incharge with the responsibility to alert the administration for taking the suitable steps for up keeping the shelters. e

(xi) Round the clock security to be provided along with necessary watch and ward staff.

(xii) The role of NGOs is vital with respect to identification, location and maintenance of night shelters. The reputed NGOs of the city which involve in the programmes of social commitment will be identified for counselling the shelterless. f

58. We would like to compliment the State of Andhra Pradesh for filing comprehensive affidavit and demonstrating great sensitivity in dealing with the grave human problem. g

59. The State has identified a large number of areas to solve the problems of urban families and others. The sensitivity which has been shown by the State of Andhra Pradesh requires to be emulated by other States and the Union Territories. h

PEOPLE'S UNION FOR CIVIL LIBERTIES v. UNION OF INDIA

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60. We direct the State of Andhra Pradesh to file an additional affidavit within two months to indicate the progress made in various fronts.

a *State of West Bengal*

61. We have perused the affidavit filed by the Principal Secretary to the Government of West Bengal. The affidavit has covered various aspects but we would like the Principal Secretary to file an additional affidavit dealing with the problems of urban homeless people in the State of West Bengal. Let the same be filed within a period of two months.

b *State of Chhattisgarh*

62. The Joint Director, Urban Administration and Development, Government of Chhattisgarh, has filed an affidavit in which it is mentioned that there are ten cities in the States where the population is more than one lakh and in those cities night shelters have been provided.

c *State of Chhattisgarh*

63. In view of the above, no further affidavit is required to be filed by the State of Chhattisgarh.

State of Tripura

64. The Additional Resident Commissioner has filed an affidavit. In the affidavit, it is mentioned that only Agartala has more than one lakh of population and after proper survey, night shelters would be provided.

d *State of Tripura*

65. Let an affidavit in compliance be filed within a period of two months.

State of Maharashtra

66. We direct the Chief Secretary of the State of Maharashtra to file a comprehensive report regarding problems of the urban homeless in the State of Maharashtra.

e *State of Maharashtra*

67. Let the same be done within a period of two months. Place these matters on 21-7-2010.

IA No. 90

68. Place this application on 10-5-2010.

f *IA No. 90*

69. The term of the Central Vigilance Committee appointed on Public Distribution System, which is due to expire on 30-6-2010, is further extended for another period of six months i.e. up to 31-12-2010.

70. Place the matters relating to the Hon'ble Justice D.P. Wadhwa's Committee Report on 22-7-2010.

Court Masters

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framed but not decided — Hence, matter remanded to High Court to decide
the same in accordance with law after giving opportunity of hearing to
parties (Paras 2 and 3) a
Appeal allowed by the Supreme Court held as above. AD-M/46269/SV

ORDER

1. Leave granted. Heard learned counsel for the parties.
2. By the impugned order, the High Court, though framed substantial question of law involved in second appeals but without deciding the same, allowed the appeals and remitted the matter to the first appellate court. In our view, on this ground alone, the impugned order is fit to be set aside. b
3. Accordingly, the appeals are allowed, the impugned order rendered by the High Court is set aside and the matter is remanded to it to decide second appeals in accordance with law after giving opportunity of hearing to the parties. c

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(Record of Proceedings) d

(BEFORE DR DALVEER BHANDARI AND DIPAK MISRA, JJ.)

PEOPLE'S UNION FOR CIVIL LIBERTIES
(PDS MATTERS)

.. Petitioner;

Versus

UNION OF INDIA AND OTHERS

.. Respondents. e

Writ Petition (C) No. 196 of 2001 with IAs Nos. 90, 93, 98, 102-108, 110-112 in WP (C) No. 196 of 2001, Contempt Petition (C) No. 99 of 2009 and WP (C) No. 277 of 2010, decided on March 16, 2012

Constitution of India — Art. 21 — Public distribution system (PDS) — Corruption and pilferage in PDS — Computerisation as a remedy — General consensus noted — Taking note of Affidavit of Secretary, GoI, Department of Food and Public Distribution, special drive made to eliminate bogus/duplicate ration cards — 209.55 lakh ration cards eliminated since 2006 saving subsidy of about Rs 8200 crores annually — Creation and management of digitised beneficiary database including biometric identification supply chain management of TPDS commodities till the fair price shops — Illustration of Gujarat — E advanced stage computerisation and bar coded ration cards reduced 16 lakhs ration cards yielding annual saving of Rs 600 crores — GoI task force under Mr Nandan Nilekani, Chairman, UIDAI, directed to recommend an IT strategy for PDS within four weeks — Copy of order sent to him through special messenger — IAs listed for further directions fixing time frame — Human and Civil Rights — Right to food — Freedom from malnutrition and hunger f
(Paras 1 to 6) g h

PUCL (PDS MATTERS) v. UNION OF INDIA

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People's Union for Civil Liberties v. Union of India, (2012) 12 SCC 357, referred to

SB-M/50756/S

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Chronological list of cases cited

on page(s)

1. (2012) 12 SCC 357, *People's Union for Civil Liberties v. Union of India*

369b-c

ORDER

b 1. In pursuance of the directions of this Court¹, Dr B.C. Gupta, Secretary to the Government of India, Department of Food and Public Distribution, New Delhi has filed an affidavit. Copies of the said affidavit have been given to the learned counsel for the petitioner and the counsel appearing for other parties.

c 2. There seems to be a general consensus that computerisation is going to help the public distribution system in the country in a big way. In the affidavit it is stated that the Department of Food and Public Distribution has been pursuing the States to undertake special drive to eliminate bogus/duplicate ration cards and as a result, 209.55 lakh ration cards have been eliminated since 2006 and the annual saving of foodgrain subsidy has worked out to about Rs 8200 crores per annum. It is further mentioned in the affidavit that d end-to-end computerisation of public distribution system comprises creation and management of digitised beneficiary database including biometric identification of the beneficiaries, supply chain management of TPDS commodities till fair price shops.

e 3. It is further stated in the affidavit that in the State of Gujarat, the process of computerisation is at an advanced stage where issue of bar coded ration cards has led to a reduction of 16 lakh ration cards. It is expected that once the biometric details are collected, this number would increase further. For the present, a reduction of 16 lakh ration cards would translate into an annual saving of over Rs 600 crores. This is just to illustrate that f computerisation would go in a big way to help the targeted population of the public distribution system in the country.

g 4. In the affidavit it is further mentioned that the Government of India has set up a task force under the Chairmanship of Mr Nandan Nilekani, Chairman, UIDAI, to recommend, amongst others, an IT strategy for the public distribution system. We request Mr Nandan Nilekani to suggest us ways and means by which computerisation process of the public distribution system can be expedited. Let a brief report/affidavit be filed by Mr Nandan Nilekani within four weeks from today.

h

¹ *People's Union for Civil Liberties v. Union of India*, (2012) 12 SCC 357

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SUPREME COURT CASES

(2013) 14 SCC

IA No. 110 of 2010

5. Notice has already been issued in this application. Mr Gonsalves, learned Senior Counsel for the petitioner submits that a copy of this application has not been served upon him. Without getting into the controversy, we request the applicant to serve a copy of this application to the learned counsel for the petitioner within a week. Reply to the application be filed within one week thereafter. a

6. List this matter on 9-4-2012 for further directions. IA No. 82 also be listed on that date. b

7. A copy of this order be sent to Mr Nilekani through a special messenger.

Court Masters

(2013) 14 Supreme Court Cases 370 c

(BEFORE P. SATHASIVAM AND RANJAN GOGOI, JJ.)

STATE OF KARNATAKA AND OTHERS

Appellants;

Versus

VIVEKANANDA M. HALLUR AND OTHERS

Respondents. d

Civil Appeals Nos. 8803-805 of 2012[†], decided on December 7, 2012

A. Constitution of India — Arts. 226 and 136 — Condonation of delay — Delay of 449 days in filing writ appeal — Held, after going through the reasons stated therein and in the light of the issues to be considered by the Division Bench as well as the financial implication on the State Exchequer, reasons stated for the delay cannot be rejected as unacceptable — Considering the issues raised and the positive direction given by the Single Judge, Division Bench ought to have condoned the delay and gone into the merits of the matter in the light of the provisions of the Karnataka Stamp Act, 1957 — Delay condoned — Matter remitted to High Court for fresh consideration (Para 8) e

B. Constitution of India — Art. 226 — Writ appeal — Issues in question not determined — Matter remanded for decision afresh — Held, without expressing anything on merits of the claim of either party, as Division Bench has not adverted to any substantial grounds urged by the State, particularly with reference to the provisions of Art. 5(c)(i) and Explan. (II) of the Karnataka Stamp Act, 1957, impugned order set aside and case remitted to High Court for fresh consideration — High Court to restore writ appeals and dispose of on merits in accordance with law, affording opportunity to all parties including newly impleaded Respondents 4 to 32 along with connected pending writ petitions, preferably within a period of six months f

[†] Arising out of SLPs (C) Nos. 14177-79 of 2010. From the Judgment and Order dated 19-6-2009 of the High Court of Karnataka at Bangalore in WAs Nos. 1023 and 1324-25 of 2009 g

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SUPREME COURT CASES

(2010) 5 SCC

(2010) 5 Supreme Court Cases 318

(Record of Proceedings)

(BEFORE DALVEER BHANDARI AND K.S.P. RADHAKRISHNAN, JJ.)

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner;

Versus

UNION OF INDIA AND OTHERS

Respondents.

IA No. 94 with IA No. 196 in WP (C) No. 196 of 2001,
decided on February 10, 2010

Human and Civil Rights — Homeless and destitute persons — Night-shelters — For shelterless persons in Delhi — Pursuant to Supreme Court's directions dt. 20-1-2010, status report submitted by Additional Solicitor General appearing for NCT of Delhi — Affidavit also filed on behalf of DDA stating that they had extended their support in this project and making suggestions in the matter — States also directed to file affidavits — Government undertook to provide guidelines for monitoring night-shelters — Homeless eligible persons to get renewable ration cards but that cannot be used as a document of identification — Households of Delhi to be identified under vulnerable and most vulnerable categories for this purpose — Surveys conducted by NGOs — Government of Delhi initiated community kitchens (Aapki Rasoi) for homeless people at 13 distribution centres — Street children also need shelters and rehabilitation — Constitution of India — Art. 21

People's Union for Civil Liberties v. Union of India, (2010) 5 SCC 423, referred to

R-D/46109/C

Advocates who appeared in this case :

Colin Gonsalves, Senior Advocate (Ms Divya Jyoti and Ms Jyoti Mendiratta, Advocates) for the Petitioner; e
P.P. Tripathi, Mohan Parasaran and Vivek Tankha, Additional Solicitor Generals, S.K. Dwivedi and Manjit Singh, Additional Advocate Generals, Dr. Manish Singhvi, Pramod Swarup and T.S. Doabia, Senior Advocates [Jana Kalyan Das, Ms Hemantika Wahi, Somnath Padhan, B.V. Balaram Das, Ms Indra Sawhney, Devanshu Kr. Devesh, Milind Kumar, Riku Sarma (for M/s Corporate Law Group), Ms Rachana Srivastava, T.V. George, Ms Kamini Jaiswal, Khwairakpam Nobin Singh, Girish Agrawal, Ranjan Mukherjee, V.G. Pragasam, S.J. Aristotle, Prabu Rama Subramanian, Jatinder Kr. Bhatia, R.K. Gupta, Rajeev Dubey, Ms Vandana Mishra, Anil Kr. Jha, Kamendra Mishra, Ravi Prakash Mehrotra, Gopal Singh, Manish Kumar, Rituraj Biswas, Tara Chandra Sharma, Ms Neelam Sharma, Kumar Rajesh Singh, Ms Prema Kumari Singh, B.B. Singh, Anil Shrivastav, Gopal Prasad, G.V. Chandrashekhar, N.K. Verma, Ms Anjana Chandrashekhar, Ramesh Babu M.R., Ms D. Bharati Reddy, Sanjay R. Hegde, Ms Sumita Hazarika, Kamal Mohan Gupta, Abhinav Mukerji, Ajay Pal (for Kuldip Singh), Ms A. Subhashini, Ravindra Keshavrao Adsure, Prashant Kumar, Vishwajit Singh, Sanjay U. Kharde, Ms Asha G. Nair, D.L. Chidananda, S. Wasim A. Qadri, Ms Sunita Sharma, Ms Saima Bakshi, Ron Bastian, D.S. Mahra, Ms Varuna Bhandari-Gugnani, Ms Sushma Suri, Ms Anil Katiyar, K.V. Mohan, Rajesh Srivastava, Anuvrat Sharma, Pragyan P. Sharma, P.V. Yogeshwaran, K.N. Madhusoodhanan, R. Sathish, R.C. Kaushik, Pradeep Misra, Venkateswara Rao Anumolu, B.S. Banthia, G. Prakash, D.K. Sinha, Vikas Mehta, Naresh K. Sharma, Anis Suhrawardy, S.M. Jadhav, Balaji Srinivasan, B.D. Vivek, Ms Madhusmita Bora, Edward Belho, Enatoli Sema, C.M.K. Kennedy, T. Harish Kumar, h

PEOPLE'S UNION FOR CIVIL LIBERTIES v. UNION OF INDIA

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Prasanth P., V. Vasudevan, Sanjib Sen, Ms Anuja Chopra, P. Parameswaran, V.B. Saharya (for M/s Saharya and Co.), Ms Aruna Mathur, Viman Dubey and Amarjeet Singh Girsra, Advocates] for the Respondents.

- a *Chronological list of cases cited* *on page(s)*
1. (2010) 5 SCC 423, *People's Union for Civil Liberties v. Union of India* 319b-c

ORDER

- b 1. In pursuance of the directions of this Court for providing shelter to shelterless people in Delhi, Mr Mohan Parasaran, learned Additional Solicitor General appearing for NCT of Delhi has submitted a status report. In the status report it is mentioned that pursuant to the directions of this Court passed on 20-1-2010¹, an urgent meeting was called by the Chief Secretary, Government of NCT of Delhi to examine the problem of providing adequate shelter in the light of the prevailing cold weather conditions in the capital. The significant decisions taken in the meeting convened by the Chief Secretary, NCT of Delhi are as follows:
- c (1) It was decided to double the existing number of accommodations in the night-shelters through the Municipal Corporation of Delhi from the existing 5000 persons to a capacity of 10,000 persons.
- d (2) In the case of Revenue Department of Delhi Government, the increase was by 500 persons.
- e 2. It is also mentioned in the status report that subsequent to the directions passed by this Court, the Revenue Department of Delhi Government pitched in 7 more night-shelters taking the total number of night-shelters to 24. Prior to that, 17 night-shelters in temporary tents were operational at 17 places in Delhi since December 2009. Those night-shelters are at: Fountain, Mori Gate, Pul Mithai, Jamuna Bazar, Kudaisea Ghat, Shahdara, Nizamuddin, Jhandewalan, Idgah, Meena Bazar, Jama Masjid, Delhi Gate, Anand Parvat near Rachna Cinema (Ratanpuri Chowk), Rajinder Nagar, Himmat Garh Chowk (Asaf Ali Road), Kalkaji Flyover, Okhla Flyover, Sarita Vihar.
- f 3. Seven new additional night-shelters pursuant to the direction of this Court were located at: Raghuvir Nagar, Sarai Kale Khan, Azadpur Fruit Mandi, Kamla Market, Mata Sundari Road, Nigambodh Ghat and Shahdara.
- g 4. In the status report, it is also mentioned that identification of sites as well as the determination of capacity in each shelter was done in active consultation with the NGOs, namely, Ashrey Adhikar Abhiyan and Indo Global Social Service Society (IGSSS). They were closely associated in the entire process of site selection, capacity determination and day-to-day management of the night-shelters. Necessary facilities were provided in these night-shelters to the homeless. Basic amenities such as blankets, drinking water and mobile toilets were provided.
- h 5. Delhi Jal Board has taken the responsibility of providing potable water. Slum and JJ Department, MCD has taken the responsibility of providing mobile toilets and police has provided the security to the inmates

¹ *People's Union for Civil Liberties v. Union of India*, (2010) 5 SCC 423

of these temporary night-shelters. The Directorate of Health Services has taken the responsibility of providing facilities for regular health check-up of the inmates of temporary night-shelters. BSES/NDPL has taken the responsibility of providing electricity connections in the temporary night-shelters. The Government is also giving instructions to all the Revenue Deputy Commissioners concerned to associate themselves for coordinating the entire exercise with various Departments/agencies so as to effectively monitor the functioning of these tents. The Revenue Headquarters bears the expenditure for blankets, electricity connections, etc. a

6. In pursuance of the directions of this Court, adequate publicity was made in the electronic media and print media so that the homeless people can get information about the shelter homes. b

7. In addition to the Delhi Government, Municipal Corporation of Delhi is providing night-shelters in permanent buildings and the same is managed through its Slum and JJ Department in coordination with the NGOs. Before the directions of this Court, the number of night-shelters in permanent buildings was 27. After the directions of this Court, the capacity has increased by 37 w.e.f. 21-1-2010, taking the total number of night-shelters to 64. This has resulted an increase in the capacity from 4165 persons to 8575 persons. c

8. It is also mentioned in the report that the facilities that are being provided in the site of night-shelters include electricity, water arrangements, toilet facilities, sanitation arrangement, bedding arrangement in the form of blankets, mattresses and jute mats have been provided and in respect of new night-shelters, procurement has been made by receipt of 2000 blankets, 2000 mattresses and 1000 jute mats. d

9. The status report also indicates that for long-term perspective, the Master Plan of Delhi, 2021 provides for one night-shelter for a population of one lakh. The Delhi Development Authority has undertaken to identify and allot sites free of cost or on concessional rates to the Government of NCT of Delhi in view of this being a humanitarian work. e

10. Mr Vishnu B. Saharya, learned counsel for the Delhi Development Authority has filed an affidavit today which is sworn to by Mr Ashok Kumar, Commissioner, Planning, Delhi Development Authority, stating that they have extended their support in this project. The provision of night-shelters is envisaged to cater to the shelterless, which are proposed to be provided near the railway terminals, bus terminals, wholesale/retail markets, freight complexes, etc. as per requirements and should be identified keeping in view the major work centres. It is also mentioned therein that special provisions should be made for the homeless women and children including disabled and orphans and old people. In addition, multi-purpose use of the existing facility buildings may be allowed for night-shelter purpose. Provision should also be made for converting existing buildings, wherever available, with suitable modifications into night-shelters. f g

11. On the basis of 2001 census of houseless population, at least 25 sites were to be earmarked in Delhi for night-shelters. In order to make provision h

- a of this facility financially sustainable for the local body, innovative concepts such as integrated complex with commercial space on the ground floor and night-shelter on the first floor should be explored. The guidelines and incentive package should be designed by the local agency concerned in collaboration with the Government of NCT of Delhi with a view to develop self-sustaining night-shelters. The houseless population of the year 2001 was 24,966 persons out of a total population of 138 lakhs. As per development norms of MPD-2021, at least 550 to 600 shelterless can be accommodated on a 1000 sq m plot size on long-term basis. Therefore, on every 5 lakh of total population one plot for night-shelter will be required.

- b 12. In the said affidavit it is also mentioned that the Delhi Development Authority being a statutory planning body for long-term perspective is duty-bound to plan and cater to the public needs for providing night-shelter and identifying available places for providing night-shelter for the benefit of affected people.

- c 13. Notices were issued to all the States for providing similar facilities of one night shelter for a population of one lakh in the metropolitan towns. The State of M.P. has filed its affidavit whereas the State of Tamil Nadu and Manipur undertake to file their affidavits during the course of the day. All other States may file their affidavits within two weeks from today, by serving an advance copy thereof upon the Union of India and the petitioner herein.

- d 14. We appreciate the positive response both from NCT of Delhi and the Delhi Development Authority in solving this human problem.

- e 15. Learned Additional Solicitor General submits that the Government undertakes to provide proper guidelines to monitor these night-shelters and these guidelines would be prepared within a period of four weeks from today. While preparing the said guidelines, the NGOs may also be consulted.

- f 16. Mrs Jayshree Raghuraman, Secretary-cum-Commissioner of the Food, Supplies and Consumer Affairs Department, Government of National Capital Territory of Delhi has filed an affidavit in response to the demand of AAY to the desiring people has not been issued. In this affidavit it is stated that Food and Supplies Department issued an order on 9-11-2009 to the Director of SAMYA with a copy to all Assistant Commissioners and FSOs for compliance. By this order, 14,850 persons out of total number of 15,000 presently identified homeless who are eligible to get the cards, were entitled to 10 litres of kerosene oil and 15 kg of specified food articles at below poverty line (for short "BPL") rates i.e. 10 kg wheat and 5 kg rice or vice-versa as per their food habits.

- g 17. The cards are issued temporarily for a period of three months and meant only for the purchase of ration and shall not be used as a document of identification. These cards would be issued to 14,850 eligible persons subject to biometric identification. It is further mentioned in the affidavit that the period of validity of homeless cards identified by NGO, SAMYA has now been extended to six months in place of three months' validity to avoid expenses and inconvenience. The homeless card would be extended automatically after six months by a simple procedure of obtaining the

biometric identification again of the homeless person at the circle office. No further survey would be required.

18. The provisions of the Control Order, 1981 provide for continuous issue/renewal of the card. The Cabinet decision was taken in March 2008, and accordingly the Government of NCT of Delhi launched a new programme facilitating the delivery of welfare entitlements by a single window system under the name of "Samajik Suvidha Sangam" (for short "SSS") or Mission Convergence. The Mission Convergence or SSS is working through Samajik Suvidha Kendras by which the facilities provided by nine Departments of the Government will be delivered through a single window scheme. Fresh applications for BPL and AAY cards will be received, processed and delivered from these kendras. a
b

19. The Deputy Commissioners of the nine districts have been appointed as statutory authorities and have been declared as Additional Commissioners (Food and Supplies) under the Delhi Specified Food Articles (Regulations and Distributions) Order, 1981. Further, financial powers are being given to the Deputy Commissioners of the nine districts to function independently and issue ration cards to all vulnerable and most vulnerable categories. The Mission Convergence database of 3.5 lakh vulnerable households and 2.5 lakh most vulnerable households will be used for issue of fresh BPL/AAY cards as per eligibility norms. In this regard, Mission Convergence/SSS has made work flow chart under which the Samajik Suvidha Kendras will process the application. NGOs will carry out verification. c
d

20. Statutory and administrative powers have been delegated to the Deputy Commissioners of the nine districts, who will carry out checks as deemed necessary and issue ration cards. They will supervise the functioning of the district kendras and then issue necessary orders for providing ration cards in their respective districts. e

21. The Samajik Suvidha Sangam had taken a decision to identify all households of Delhi under two categories; one, vulnerable households, and second, most vulnerable households. The SSS has categorised the vulnerable households to include construction labour, rag-pickers, porters and hamaals, casual daily labour, wage labour, street vendor/hawkers, cycle rickshaw drivers, casual domestic workers, workers in small household enterprises and workers in households industries. The most vulnerable households include old people, disabled people, single women, women-headed households, single unprotected children, child-headed households, people with debilitating illness. f

22. The SSS has already conducted two surveys in resettlement and rural pockets for identifying vulnerable households and the most vulnerable households. It has covered 5.39 lakh families of which 2.05 lakh households are already covered under the PDS system and are having ration cards. 3.34 lakh households of the surveyed families appear to be without ration cards. The survey of entire Delhi is still on. g

23. It is stated that on the instruction of the Government of India the issue of ration to the poor is based on income categories whereas the h

- a vulnerability criteria of the Government of NCT of Delhi is based on proxy indicators of poverty. The two have still to be reconciled. Meanwhile, the Mission Convergence has initiated a new survey of the homeless with the view to get biometric (*sic* impressions) captured to get a firm list of homeless people.

- b 24. In the affidavit it is also mentioned that the NGO, SAMYA had conducted survey and identified 15,000 homeless beneficiaries of which 14,850 have been approved for giving of "homeless cards". These cards are being prepared zonewise and a list is displayed at the Office of the Assistant Commissioners/circle office for distribution of the special homeless cards to the beneficiaries after obtaining their biometric impressions. The NGO, SAMYA has also been informed to facilitate delivery of these cards to the beneficiaries and enable them to lift the specified food articles (SFA) and kerosene oil allocated from the linked fair price shop (FPS)/kerosene oil depot (KOD).

c 25. Mr Gonsalves, learned counsel for the petitioner submitted that the State Government has tried to deal with the problems of the poor homeless in right earnest, but the Government ought to have issued AAY cards in which the quantity of food entitlement is larger and is given at a lower rate.

- d 26. Mr Parasaran, learned Additional Solicitor General appearing for the NCT of Delhi will take instructions.

27. The Commissioner, Shri N.C. Saxena and Special Commissioner of the Supreme Court, Shri Harsh Mander has submitted a report. The learned Additional Solicitor General may take instructions and file reply, if any, within two weeks from today.

- e 28. Mr Gonsalves, learned counsel for the petitioner has also brought to our notice that the Government of Delhi has initiated a programme of community kitchens (Aapki Rasoi) which serves a nutritious balanced meal for the homeless people at about 13 distribution centres across the city. According to Mr Gonsalves, it is a laudable initiative but it caters to the need of only five per cent of the homeless.

- f 29. Mr Parasaran, learned Additional Solicitor General submits that he would take instructions and file an additional affidavit to this effect.

- g 30. Mr Gonsalves, learned counsel for the petitioner also pointed out the problem of street children. According to him, street children suffer from many denials and vulnerabilities. These include, deprivation of responsible adult protection; coercion to work to eat each day; work in unhealthy occupations on streets like rag-picking, begging and sex work; abysmally poor sanitary conditions. They have inadequate nutrition from begging and according to him the number of such children in Delhi alone is over 50,000. He submitted that the Delhi Government has an excellent scheme for providing them shelters and rehabilitation centres but that cover a very small percentage of these children. There is an urgent need for providing residential homes for street children, especially those without any adult protection so that their food, health and education can be taken care of.

h

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SUPREME COURT CASES

(2010) 5 SCC

31. Mr Gonsalves has submitted that the Delhi Government has already begun implementing a pilot project, four residential schools in Delhi and this project has been successfully implemented for the last three years. According to him, the requirement is about 300 such residential schools in Delhi. The similar problem exists all over and according to him, there should be one high quality residential school on the lines of Kasturba Gandhi Vidyalayas for every 50,000 of urban population. a

32. Mr Parasaran will take instructions and file an affidavit within two weeks from today. Since other States have yet to file affidavits, we also direct them to file affidavits within two weeks regarding the problems of street children in their respective States. b

33. Place the matter on 16-3-2010.

Court Masters

(2010) 5 Supreme Court Cases 324 c

(BEFORE P. SATHASIVAM AND R.M. LODHA, JJ.)

STATE OF JHARKHAND AND OTHERS

Appellants;

Versus

MISRILALL JAIN AND SONS AND ANOTHER

Respondents. d

Civil Appeals Nos. 3226-71 of 2010[†] with Nos. 3272 of 2010[‡],
3274-75 of 2010^{††}, 3273 of 2010^{‡‡} and 3276-77 of 2010^{††},
decided on April 13, 2010

Mines and Minerals — Mining lease — Demand for enhanced surface rent — Validity of Resolution dt. 17-6-2005 issued by State Government — Executive or legislative order — High Court by impugned judgment quashing said resolution examining its validity partly on assumption that it was issued by State Legislature — However, Resolution dt. 17-6-2005 was an executive order — Moreover, aspects germane for consideration of controversy overlooked by the High Court, while certain irrelevant aspects taken into consideration — Hence, matter remitted to High Court for reconsideration — Mines and Minerals (Development and Regulation) Act, 1957 — Ss. 2, 3, 4, 5, 13, 15 and 17 — Mineral Concession Rules, 1960 — Rr. 27(1)(d) and 31 — Jharkhand Minor Mineral Concession Rules, 2004 — R. 29(1)(d) — Administrative Law — Administrative or Executive function — Administrative orders/decisions/Executive instructions/orders — What are (Paras 3, 4, 6 and 16 to 19) e f

Appeals allowed

P-D/45900/C

[†] Arising out of SLPs (C) Nos. 24489-534 of 2007. From the Judgment and Order dated 7-5-2007 of the High Court of Jharkhand at Ranchi in WPs (C) Nos. 1281 of 2006 with Nos. 596, 1323, 1369, 1398, 2495, 1217, 1253, 398 of 2006, WP (S) No. 2233 of 2006, WPs (C) Nos. 2199, 1750, 1021, 1032, 1439, 1797, 1877, 1884, 1958, 2078, 1581, 1720, 2342, 2358, 2359, 2361, 893, 854, 2052, 2007, 2266, 1498 of 2006, 5831 of 2005, 3168, 2057, 4228, 1297, 1267, 3906, 5014, 4883, 5655, 4169, 2217 of 2006, 362 of 2007 and WP (T) No. 1463 of 2006 g

[‡] Arising out of SLP (C) No. 7199 of 2008

^{††} Arising out of SLPs (C) Nos. 7200-01 of 2008 h

^{‡‡} Arising out of SLP (C) No. 7202 of 2008

^{††} Arising out of SLPs (C) Nos. 7203-04 of 2008

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Answer R-11

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) No. 607 of 2016

LOKNITI FOUNDATION

.....PETITIONER

VERSUS

UNION OF INDIA AND ANR.

.....RESPONDENTS

O R D E R

1. The petitioner has approached this Court for a commendable cause. The prayer made in the writ petition is, that there should be a definite mobile phone subscriber verification scheme, to ensure 100% verification of the subscriber. It is the prayer of the petitioner, that the identity of each subscriber, as also, his/her address should be verified, so that no fake or unverified phone subscriber, can misuse a mobile phone. It was the contention of the learned counsel for the petitioner, that the instant prayer is imperative, as mobile phones are, used not only for domestic criminal activity, but also, for known terrorist activity (sometimes with foreign involvement).

Signature invalid

Digitally
Signed
by
YADAV
Date:
14/03/2016
Page: 1

Consequent upon notice being issued to the Union of India, a short counter affidavit has been filed on its behalf, wherein, it is averred as under:

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"22. That however, the department has launched 'Aadhaar based E-KYC for issuing mobile connections' on 16th August, 2016 wherein the customer as well as Point of Sale (PoS) Agent of the TSP will be authenticated from Unique Identification Authority of India (UIDAI) based on their biometrics and their demographic data received from UIDAI is stored in the database of TSP along with time stamps. Copy of letter No.800-29/2010-VAS dated 16.08.2016 is annexed herewith and marked as Annexure R-1/10.

23. As on 31.01.2017, 111.31 Crores aadhaar card has been issued which represent 87.09% of populations. However, still there are substantial number of persons who do not have aadhaar card because they may not be interested in having Aadhaar being 75 years or more of age or not availing any benefit of pension or Direct Benefit Transfer (DBT). Currently Aadhaar card or biometric authentication is not mandatory for obtaining a new telephone connection. As a point of information, it is submitted that those who have Aadhaar card/number normally use the same for obtaining a new telephone connection using E-KYC process as mobile connection can be procured within few minutes in comparison to 1-2 days being taken in normal course.

24. That in this process, there will be almost 'NIL' chances of delivery of SIM to wrong person and the traceability of customer shall greatly improve. Further, since no separate document for Proof of Address or Proof of Identity will be taken in this process, there will be no chances of forgery of documents."

3. The learned Attorney General, in his endeavour to demonstrate the effectiveness of the procedure, which has been put in place, has invited our attention to the application form, which will be required to be filled up, by new mobile subscribers, using e-KYC process. It was the submission of the learned Attorney General, that the procedure now being adopted, will be sufficient to alleviate the fears, projected in the writ petition.

4. Insofar as the existing subscribers are concerned, it was submitted on behalf of the Union of India, that more than 90% of the subscribers are using pre-paid connections. It was pointed out, that each pre-paid connection holder, has to per force renew his connection periodically, by making a deposit for further user. It was submitted, that these 90% existing subscribers, can also be verified by putting in place a mechanism, similar to the one adopted for new subscribers. Learned Attorney General states, that an effective programme for the same, would be devised at the earliest, and the process of identity verification will be completed within one year, as far as possible.

5. In view of the factual position brought to our notice during the course of hearing, we are satisfied, that the prayers made in the writ petition have been substantially dealt with, and an effective process has been evolved to ensure identity verification, as well as, the addresses of all mobile phone subscribers for new subscribers. In the near future, and more particularly, within one year from today, a similar verification will be completed, in the case of existing subscribers. While complimenting the petitioner for filing the instant petition, we dispose of the same with the hope and expectation, that the undertaking given to this Court, will be taken seriously, and will be given effect to, as soon as possible.

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6. The instant petition is disposed of, in the above terms.

.....CJI.
(JAGDISH SINGH KHEHAR)

.....J.
(N.V.RAMANA)

NEW DELHI;
FEBRUARY 6, 2017.

True Copy

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ITEM NO.9

COURT NO.1

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s).607/2016

LOKNITI FOUNDATION

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR.

Respondent(s)

Date : 06/02/2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s) Dr.Ashok Dhamija, Adv.
Dr. Kailash Chand, AOR

For Respondent(s) Mr.Mukul Rohtagi, AG
Mr.A.N.S.Nadkarni, ASG
Mr.Vijay Prakash, Adv.
Ms.Sadhna Sandhu, Adv.
Mr.Jai Dehadrai, Adv.
Mr.Santosh Salvadore Rebello, Adv.
Ms.Sneha S.Prabhu Tendulkar, Adv.
Mr.Ajit Yadav, Adv.
Mr.G.S.Makker, Adv.

For TRAI Mr.Sanjay Kapur, Adv.
Mr.Anmol Chandan, Adv.
Ms.Priyanka Das, Adv.
Ms.Shubhra Kapur, Adv.

Upon hearing the counsel the Court made the following
O R D E R

The instant petition is disposed of, in terms of the
signed order.

(SATISH KUMAR YADAV)
AR-CUM-PS

(RENUKA SADANA)
ASSISTANT REGISTRAR

(Signed order is placed on the file)

Take Copy

ITEM NO.60

COURT NO.8

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No. 247/2017

BINOY VISMAN

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

(With appln. (s) for directions and office report)

WITH

W.P.(C) No. 277/2017

(With appln(s) for stay and Office Report)

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(With appln(s) for exemption from filing O.T., ex-Parte stay, permission to file lengthy list of dates and Office Report)

Date : 04/05/2017 These petitions were called on for hearing today.

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HON'BLE MR. JUSTICE ASHOK BHUSHAN

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UPON hearing the counsel the Court made the following
O R D E R

Heard.

Arguments concluded.

Judgment reserved.

(Nidhi Ahuja)
Court Master

(Mala Kumari Sharma)
Court Master

Tru Cng

world development report

2016

DIGITAL DIVIDENDS

A World Bank Group Flagship Report

118

world development report

2016

DIGITAL DIVIDENDS



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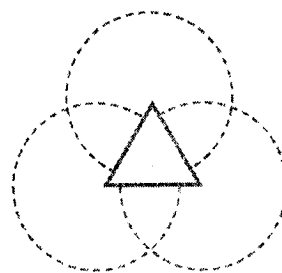
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OVERVIEW

Strengthening the analog foundation of the digital revolution



Digital technologies have spread rapidly in much of the world. Digital dividends—the broader development benefits from using these technologies—have lagged behind. In many instances digital technologies have boosted growth, expanded opportunities, and improved service delivery. Yet their aggregate impact has fallen short and is unevenly distributed. For digital technologies to benefit everyone everywhere requires closing the remaining digital divide, especially in internet access. But greater digital adoption will not be enough. To get the most out of the digital revolution, countries also need to work on the “analog complements”—by strengthening regulations that ensure competition among businesses, by adapting workers’ skills to the demands of the new economy, and by ensuring that institutions are accountable.

Digital technologies—the internet, mobile phones, and all the other tools to collect, store, analyze, and share information digitally—have spread quickly. More households in developing countries own a mobile phone than have access to electricity or clean water, and nearly 70 percent of the bottom fifth of the population in developing countries own a mobile phone. The number of internet users has more than tripled in a decade—from 1 billion in 2005 to an estimated 3.2 billion at the end of 2015.¹ This means that businesses, people, and governments are more connected than ever before (figure O.1). The digital revolution has brought immediate private benefits—easier communication and information, greater convenience, free digital products, and new forms of leisure. It has also created a profound sense of social connectedness and global community. But have massive investments in information and communication technologies (ICTs) generated faster growth, more jobs, and better services? Indeed, are countries reaping sizable digital dividends?

Technology can be transformational. A digital identification system such as India’s Aadhaar, by overcoming complex information problems, helps willing governments to promote the inclusion of disadvantaged groups. Alibaba’s business-to-business

e-commerce site, by significantly reducing coordination costs, boosts efficiency in China’s economy and arguably the world’s. The M-Pesa digital payment platform, by exploiting scale economies from automation, generates significant financial sector innovation, with great benefits to Kenyans and others. Inclusion, efficiency, innovation—these are the main mechanisms for digital technologies to promote development.

Although there are many individual success stories, the effect of technology on global productivity, expansion of opportunity for the poor and the middle class, and the spread of accountable governance has so far been less than expected (figure O.2).² Firms are more connected than ever before, but global productivity growth has slowed. Digital technologies are changing the world of work, but labor markets have become more polarized and inequality is rising—particularly in the wealthier countries, but increasingly in developing countries. And while the number of democracies is growing, the share of free and fair elections is falling. These trends persist, not because of digital technologies, but in spite of them.

So, while digital technologies have been spreading, digital dividends have not. Why? For two reasons. First, nearly 60 percent of the world’s people are still offline

Box O.8 The four digital enablers (continued)

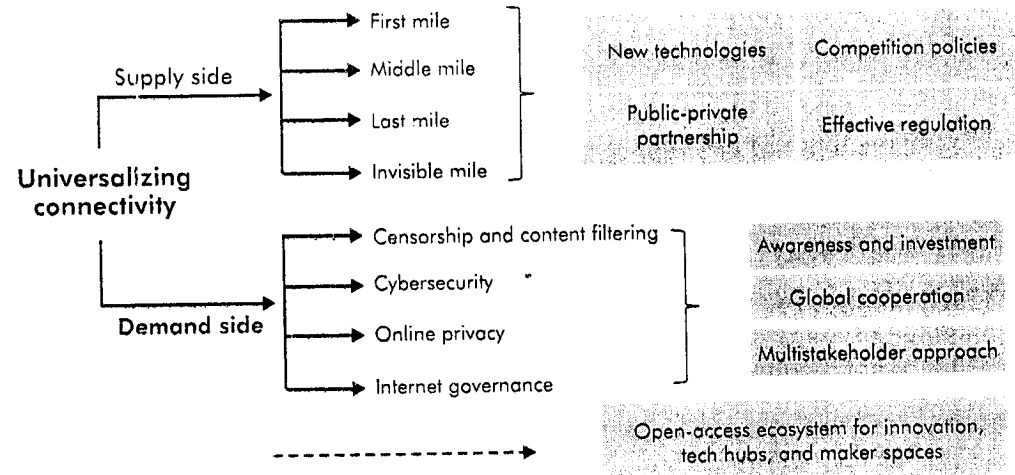
behavior in ways that are consistent with development, providing a platform for information and dissemination during natural disasters and emergencies, and encouraging political mobilization and social change. Some analysts think that social media played a critical role in recent events such as the Arab Spring and Occupy Wall Street, and thereby were instrumental in spreading democratic ideas, although many remain skeptical of their actual impact. There is still much to learn about the role social media can play in development. While a source for innovative ideas, social media also remain conduits for gossip, slander, misinformation, harassment, bullying, and crime. One important lesson is that the impact of social media on development seems to be highly specific to context. Variation in access to technology, education, and broader sociopolitical context matters. For instance, there is evidence that people in more autocratic countries are less likely to forward information (for example, by re-tweeting it).

Digital identity. Being able to prove who you are may seem trivial, but it can be transformational for those excluded from jobs and services. Simple electronic identification systems, often using biometric characteristics, have become an effective platform for secure bank transactions, voting, accessing social services, paying utility bills, and much more. Many countries, from Moldova to Nigeria and Oman, have introduced digital IDs. India is on track to register its entire population using its Aadhaar digital ID. In Estonia and other countries, thousands of different types of public and private transactions are verified with a unique electronic ID

system, including legally binding contracts and voting in national elections.

Data revolution. In harnessing data for development, attention focuses on two overlapping innovations: “big data” and open data. Big data are voluminous or fast, and they come from myriad sources—from satellites to sensors and from clouds to crowds. Big data analytics is being deployed to improve traffic planning, estimate macro aggregates (also referred to as “nowcasting”), track the spread of epidemics, and improve credit scoring and job matching. Open data are those that are freely and easily accessible, machine-readable, and explicitly unrestricted in use. Governments are, or could be, the most important source of open data. Exuberant estimates of the current and potential economic value of big data and open data range from hundreds of billions to trillions of dollars per year. Yet sustained, impactful, scaled-up examples of big data and open data in developing countries are still relatively rare. Most big data are in private hands—large telecom and internet companies—which are reluctant to share it for fear of jeopardizing customer privacy or corporate competitiveness. Public agencies, too, are reluctant to share data, even when they have large public benefits. For example, of countries surveyed by the Open Data Barometer, one-third of the high-income countries and 85 percent of developing countries had made little or no progress in opening map data. Reasons include lack of technical skills, inadequate resources, and unwillingness to expose data to scrutiny.

Figure O.20 A policy framework for improving connectivity



Source: WDR 2016 team.

SPOTLIGHT 4

ENABLING DIGITAL DEVELOPMENT

Digital identity

Individuals need mechanisms to identify one another and to identify themselves to their communities and governments. While this point may be obvious, it is profoundly important for people's welfare. Simple mechanisms—familiarity, appearance, perhaps vouching by an elder—are sufficient in small, intimate communities. Wider societies and economies require more formal systems—traditionally physical tokens, such as a paper-based identification (ID) card that includes the signatures or representations of their holders, and is verified against documents stored in a central registry. But these formal systems are failing in the developing world. Nearly 2.4 billion people are not registered. They are usually the poorest and most marginalized members of society; about one-quarter are children.¹ They are excluded from a range of rights and services, such as health care, enrollment in school, social welfare, and financial services.

Identity should be a public good. Its importance is now recognized in the post-2015 development agenda, specifically as a Sustainable Development Goal (SDG) target to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels.”² One of the indicators is to “provide legal identity for all, including birth registration, by 2030.” The best way to achieve this goal is through digital identity (digital ID) systems, central registries storing personal data in digital form and credentials that rely on digital, rather than physical, mechanisms to authenticate the identity of their holder. India's massive Aadhaar program, which has enrolled over 950 million people, has dispensed with the physical ID card altogether. Estonia has created

an electronic legal representation of an individual. Through the use of personal identification numbers (PINs) to authenticate the holder against a digital card credential, people can access public services remotely and even sign legal documents and contracts with the same legal validity as if they were signed in person.

Country-specific use of digital identity

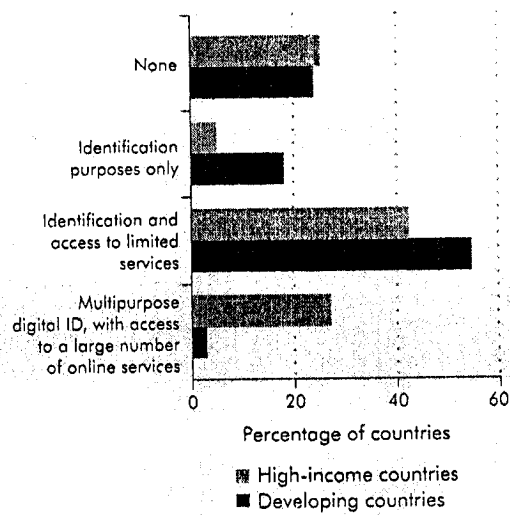
Most developing countries have some form of digital ID scheme tied to specific functions and serving a subset of the population, but only a few have a multi-purpose scheme that covers the entire population. Eighteen percent of developing countries have a scheme that is used for identification purposes only; 55 percent have digital IDs that are used for specific functions and services like voting, cash transfers, or health; and only 3 percent have foundational ID schemes that can be used to access an array of online and offline services (figure S4.1). Twenty-four percent of developing countries have no digital ID system.

Although the concept of digital ID is universal, it plays somewhat different roles depending on the country context. In high-income countries, digital ID represents an upgrade from well-established, robust legacy physical ID systems that have worked reasonably well in the past. Belgium, Estonia, Finland, France, the Republic of Korea, and Singapore are some of the countries leveraging existing physical identity infrastructure to create digital ID ecosystems, enabling them to deliver public services more efficiently.

Low-income countries, by contrast, often lack robust civil registration systems and physical IDs and are building their ID systems on a digital basis, leapfrogging the more traditional physically based

Contributed by Joseph Atick, Mariana Dahan, Alan Gelb, and Mia Harbitz.

Figure S4.1 Different types of digital ID schemes across countries



Source: World Bank ID4D database (various years). Data at http://bit.do/WDR2016-FigS4_1.

system. Identification, rather than e-services, is the main immediate goal. Such systems are being developed in Bangladesh, Guinea, and Kenya. One potential risk associated with leapfrogging to civil identification systems without a solid civil registration system is that in many cases the 0–18 population is excluded, and continues to be unregistered.

In middle-income countries, digital ID is strengthening and progressively replacing physical identity services while supporting the emergence of some e-services. Successful examples are found in Albania, India, Moldova, and Pakistan.

Evidence of impact

Evidence of the impact of digital ID is still largely anecdotal, but there is a growing body of research in at least three key areas—efficient management of social welfare programs, removing ghost workers from the government payroll, and improving the sanctity of elections.

Efficient management of social programs and welfare distribution

Digital IDs enable targeted cash transfers to bank accounts linked to a unique identifier. This ensures that those who are entitled to receive subsidies or benefits are actually getting them. For example, in India's fuel subsidy program, implementing cash transfers to Aadhaar-linked bank accounts to buy liquefied petroleum gas cylinders saved about US\$1 billion per year when applied throughout the country.³

This is just one of many subsidy programs in India that are being converted to direct transfers using digital ID, potentially saving over US\$11 billion per year in government expenditures through reduced leakage and efficiency gains.⁴ Other examples of the benefits of digital ID in reducing leakages for social protection or security programs, health insurance, and pension schemes due to duplicates, "ghost" beneficiaries, and corruption are occurring in Chile, the Arab Republic of Egypt, Ghana, Indonesia, Pakistan, South Africa, and Turkey.

Removing ghost employees from the government payroll

The budgets of many developing countries suffer from bloated civil service wages that leave little room for capital investments. For example, the public payroll occupies the bulk of the national budgets of Ghana, Uganda, and Zimbabwe, but weak systems imply that many individuals paid from the payroll do not actually work for the government, and may not even be alive.⁵ Nigeria recently implemented a digital ID system for civil servants that enabled it to remove about 62,000 such ghost workers, saving US\$1 billion annually, and providing a return on investment of nearly 20,000 percent in one year.⁶ The impact of ghost workers is even worse in many other countries, ranging from 10 percent to as high as an estimated 40 percent in Zimbabwe, pointing to the substantial fiscal savings and efficiency gains from digital ID.⁷

Improving electoral integrity

Nigeria used digital IDs to prevent vote rigging in its 2015 elections.⁸ The system enrolled about 68 million voters using biometrics (issuing voter cards that encoded the fingerprints of the rightful holder on a chip) and used card readers to authenticate voters, thus preventing 4 million duplicate votes. Although there were some operational challenges at the polls, the election was conducted successfully: all votes were cast, and it was difficult to rig or contest the results in the face of the transparency brought about by digital identity. However, other countries, such as Kenya and Somalia, have not reaped the same benefits from the biometric voter IDs.⁹ Therefore, this remains an area of further research.

Developing effective digital ID schemes

Digital ID schemes rely on a backbone of connected systems, databases, and civil or population registries. These in turn have been established through a thorough enrollment process of the targeted population.

SPOTLIGHT 4

Many programs now include the use of both biometric data and traditional biographical data, as well as programs to eliminate duplicate enrollments to help ensure that each individual has only one registered identity and one unique identifying number.

The digital record is the basis for issuance of credentials, which may be cards equipped with bar codes or more advanced chip-based smart cards; they can also be single-function (and provide evidence only of identity) or multifunctional, with the card able to act as a bank card, driving license, and so on. India's Aadhaar program dispenses with the card altogether, providing remote authentication based on the holder's fingerprints or iris scan.¹⁰ Online and mobile environments require enhanced authentication features—such as electronic trust services, which include e-signatures, e-seals, and time stamps—to add confidence in electronic transactions.

Mobile devices offer a compelling proposition for governments seeking to provide identity credentials and widespread access to digital services. In Sub-Saharan Africa, for example, more than half of the population in some countries is without official ID, but more than two-thirds of the residents in the region have a mobile phone subscription. The developing world is home to more than 6 billion of the world's 7 billion mobile subscriptions, making this a technology with considerable potential for registration, storage, and management of digital identity.

For a digital ID system to be effective, it must be rooted in an upgraded legal framework that considers the accessibility and protective measures of the system; clear definitions for the interconnectivity and interoperability with other (administrative or functional) registries; and coordinated investments throughout the country in information and communication technology (ICT) to develop a reliable and secure platform.

Digital identification systems may be developed in response to a specific application (elections, tax, social protection or security, pensions, health insurance, and the like), referred to as *functional schemes*.¹¹ Or they may be developed as universal multipurpose systems capable of supporting the entire range of needs for legal identity across all applications, known as *foundational identity schemes*. This distinction between functional and foundational systems is not immutable over time; often functional ones evolve to become foundational (in Bangladesh, Haiti, and Mexico, voter ID has become de facto national ID). No matter what the country context is, the priority should be to confer identity for all, either through a universal foundational scheme or through harmonization of the mul-

titude of existing functional systems, so that in their totality they achieve full coverage.

Risks and mitigation

Digital ID schemes tend to be complex, are often politicized, and are subject to failure to deliver on high expectations. Risks associated with unsuccessful implementation can be mitigated by adopting guidelines that have emerged from the collective experience of digital ID schemes' rollouts around the world.¹² In this respect, several areas of focus emerge as critical:

- *Legal and regulatory concerns* about how to best determine the types, extent, and use of information collected under digital ID schemes; how to safeguard the privacy of personal data; and how to craft new primary legislation or rules to avoid unintended consequences such as inadvertent exclusions, onerous mandates that could deter individuals from accessing services, or increased rent-seeking involving registration or certificates.
- *Institutional and administrative concerns* about the institutional location of the civil and identification registries, and their interaction with functional registries or line ministries that need to verify or authenticate identities of beneficiaries or clients. The legal or foundational registries are traditionally located in the ministry of interior, justice, or home affairs; and more recently in special-purpose agencies independent of any line ministry (or loosely affiliated with one), and reporting to the center of government. Without effective coordination, there is a risk of a patchwork of competing schemes that would lack interoperability and consistency. The risk of exclusion would also be higher, as participation in functional IDs is a matter of program eligibility and not a birthright, as in foundational schemes.¹³
- *Technological concerns* about working with the private sector to develop a sustainable digital infrastructure that can reach remote areas and prevent exclusion; ensure interoperability and trusted authentication protocols for data exchange among different services and solution providers; and ensure data security, particularly in the use of biometrics, as well as the long-term accessibility and security of identity records.
- *Business models and procurement concerns* engendered by technology solutions that are tied to specific vendors; lack of open architecture anchored on modularity and open standards; lack of costing guidance

identify ghost workers, as in Nigeria, where a digital identification scheme for civil servants removed about 60,000 fictitious workers from the government payroll, saving US\$1 billion annually.⁶⁸

Establish population registers

Digital population registers can establish citizen identity and be leveraged later for a variety of applications through appropriate credential verification (see spotlight 4). The focus should be on developing the identity database and on the systems to ensure completeness and high quality. Only after the country has developed harmonized identity registers can it legitimately begin to tie e-services and issue the right credentials to support them. In many cases, countries, under vendor pressure, have prematurely procured costly smart cards, which then remained unused as the identity registers had not been developed first. India focused on enrollment and unique identity and launched the program without any smart cards or credentials, just an Aadhaar number communicated to individuals. Now, more than five years later, different programs are issuing application-specific credentials linked to the Aadhaar framework and database.

Scale up nonstate provision of services

Citizens in many low-income countries send their children to nonstate schools (for-profit or not-for-profit) and seek care from private health providers. Nonstate provision raises questions of equity and quality. These risks can be mitigated through regulations, disclosures, and public-private partnerships, such as voucher programs and contracting out. These programs, if implemented well, can be highly effective. In an educational scheme for marginal communities in rural Pakistan, the government paid the private provider a per-child subsidy, increasing primary school enrollments and boosting test scores by 30 percentage points.⁶⁹ These programs can also be compatible with the interests of even clientelist politicians, as they are likely to be supported by important stakeholders like the business community and private service providers.

Nonstate provision theoretically relies on the power of the market to solve accountability failures in ways that public provision cannot. But in practice, parents may lack the choice of alternative providers or the information on provider quality to "vote with their feet" and hold nonstate providers accountable. The impact of low-cost private schools on student learning is generally positive, but in some cases they can be even worse than their public counterparts.⁷⁰ Performance agreements between governments and nonstate providers require some contracting and

monitoring capacity in government, and the collection and verification of data to hold nonstate providers accountable.

Digital technologies can improve the impact of these schemes through better data collection, monitoring, and dissemination of information on provider quality. Parents can make more informed decisions, fixing the market failures in private provision. Non-digital school report cards in Pakistan's rural Punjab for example, improved parental information, lowered private school prices, and boosted school quality.⁷¹ Digital technologies can make these choices easier through simpler versions of the school and health care provider rating systems that are now commonplace in the high-income countries. And governments, in the absence of parental choice, can better hold the private providers to account.

Improve electoral accountability

Digital technologies are improving both the sanctity of elections and providing citizens with meaningful and actionable information on government performance. Although the number of electoral democracies in poor countries has increased over the past two decades, the integrity of elections in these new democracies is low. Over half of the elections over the past decade had irregularities either in the run-up to the election or on election day.⁷² Elections are well-suited for digitally enabled monitoring. As high-profile events that attract significant international attention and scrutiny, improving electoral integrity may be possible even in politically difficult emerging country contexts.

Digital technologies can reduce election violence, as in Kenya and Mozambique, and uncover fraud in vote-counting, as in Afghanistan. Digital identification is being increasingly used to register voters. In Pakistan for example, ahead of the 2013 parliamentary elections, the digital identity database was used to clean the electoral rolls, leading to the removal of 37 million voters with either no, invalid, or duplicate identities, and the addition of 36 million new voters, mostly young and poor, who had valid identification.⁷³ Similarly, in the 2015 presidential election in Nigeria, biometric identification was used for the first time to enroll 68 million voters and to eliminate 4 million duplicate identities (see spotlight 4). Despite these successes though, biometric identification is not without its risks in emerging countries. Simpler, lower-cost monitoring technologies like cellphones that require fewer institutional complements may be preferable.⁷⁴

Digital technologies can also improve electoral accountability by exposing corruption and abuse of office, thereby better enabling voters to sanction

Tracy

1/28

World Bank gives Aadhaar thumbs up; wants other nations to adopt it too

The Aadhaar system is the most sophisticated identification programme in the world, said Romer

BS Web Team | New Delhi March 17, 2017 Last Updated at 11:43 IST



As the government is in the process of linking Aadhaar cards with an array of schemes and programmes amid criticism, the system has been lauded by World Bank chief economist Paul Romer. He feels that other nations should also adopt this system.

"The Aadhaar system is the most sophisticated

Aadhaar

identification programme in the world," said Romer in an interview with [Bloomberg](#).

Romer asserted that it is best to develop one standardised system so people can carry their IDs wherever they go in the world.

"It's the basis for all kinds of connections that involve things like financial transactions. It could be good for the world if this became widely adopted," Romer said.

Interestingly, countries like Tanzania, Afghanistan and Bangladesh have shown interest in the Aadhaar system and visited India, Nandan Nilekani, former chairman of the Unique Identification Authority of India (UIDAI), who created Aadhaar said.

In 2016, RS Sharma, chairman of Telecom Regulatory Authority of India (Trai) told Mint that Russia, Morocco, Algeria and Tunisia have also shown interest in Aadhaar.

However, many critics suggest that Aadhaar could put privacy at stake. In 2013, a group of petitioners, including a retired judge of the Karnataka High Court, approached the Supreme Court saying that the Aadhaar scheme is an "infringement" on the right of privacy of citizens.

In countries like UK, France and USA similar plans are widely debated. In 2010, UK announced that it was scrapping a plan for a national identity register after objections that it infringed on civil liberties, but it continues to issue biometric residence permits for foreigners. In France a mega database for biometric details of citizens is under the scanner. In US, identity theft complaints were the second-most reported in 2015, Federal Trade Commission said.

Romer rubbished such concerns saying, "It should be part of the policy of the government to give individuals some control over the data that the private firms collect and some control over how that data is used."

UIDAI says no reason to worry

The UIDAI has biometric and demographic details of 1,110 million residents.

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"There has been no breach to UIDAI database of Aadhaar in any manner whatsoever and personal data of individuals held by UIDAI is fully safe and secure," the UIDAI, which was set up in 2009 with an aim to provide a 12-digit unique identification number to all the residents after capturing their biometrics details, said in a statement.

The agency claimed that it has decided to encrypt data at the point of capture to strengthen the security features of Aadhaar eco-system. It noted that it has helped 44.7 million people to open bank accounts through Aadhaar e-KYC and enabled the government to directly transfer benefits into the accounts of beneficiaries of various schemes, including domestic cooking gas subsidy, scholarships, the Mahatma Gandhi National Rural Employment Guarantee Scheme and pension disbursal. **ALSO READ: No data breach, Aadhaar transfer saved Rs 50,000 cr: UIDAI**

Some important schemes where Aadhaar is linked

- All disabled people receiving cash benefits such as transport cost, boarding and lodging cost, conveyance cost, cost for post placement support under the Central Sector Scheme for Implementation of Persons with Disability Act, 1995 are required to furnish Aadhaar as a form of identity or enrol for it on or before May 30 2017.
- All cash benefits under the Central Sector Sponsorship Scheme for Disabled People will be received by people who provide Aadhaar or get enrolled for it on or before May 30 2017.
- All women belonging to below poverty line families getting a new liquefied petroleum gas connection are required to provide Aadhaar in order to recover the expenditure and get subsidies under the Pradhan Mantri Ujjwala Yojana scheme. The last date for Aadhaar enrolment in case of this scheme is March 31 2017.
- Compensation received by the victims of the Bhopal gas tragedy will also require Aadhaar. For this scheme, the last date of enrolment for Aadhaar is May 30 2017.
- Under the Integrated Child Development Scheme (ICDS), the schools and Anganwadis have been asked to collect the Aadhaar number of the children beneficiaries of mid-day meal scheme and in case a child does not have Aadhaar, the school or ICDS functionary will be required to provide enrolment facilities to a child and till Aadhaar number is assigned, the benefits will continue, the government said in a statement. The last date for enrolling for Aadhaar is June 30 2017 for it.

ALSO READ: Not just mid-day meals: Aadhaar made mandatory for 11 more schemes

Government faces flak

Recently, the government faced a lot of flak for making Aadhaar mandatory for availing benefits for socially relevant schemes like mid-day meal scheme and Integrated Child Development Scheme (ICDS) as critics were skeptical that the step is meant to curtail the benefits. The circular was also said to be in violation of Supreme Court guidelines.

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Aadhaar goes global, finds takers in Russia and Africa

Countries such as Morocco, Algeria and Tunisia express interest in adopting the model or some form of it

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In India, Aadhaar completed the enrolment of a billion people in May, about five-and-a-half years after the programme was launched. Photo: Priyanka Parashar/Mint

New Delhi: Aadhaar, India's biometrics-based identification system, may have its detractors at home, but governments overseas have shown interest in adopting the model or some form of it.

Russia, Morocco, Algeria and Tunisia have evinced interest in Aadhaar, under which the Unique Identification Authority of India (UIDAI) has enrolled more than 1 billion people.

The department of information technology, the ministry of external affairs and Telecom Regulatory Authority of India (Trai) chairman R.S. Sharma, who served as UIDAI director-general from 2009-13, are part of an effort to promote the Aadhaar model overseas. The World Bank is acting as a facilitator in the process.

The ministry of external affairs also included Aadhaar on the agenda of Indian vice-president Hamid Ansari's recent visit to Morocco and Tunisia.

"Morocco wants to do what India has done in the space," Sharma said in an interview on Wednesday after returning from Russia, where he addressed a seminar on financial inclusion that was attended by representatives of the European Union and the International Monetary Fund.

On India's recommendation, Morocco has included provisions for biometric identification and authentication in its proposed national population register (NPR), added Sharma.

"They seem to have changed their strategy and approach, now more aligned with the UID project of India," he said.

Morocco's attempt to reform its system of identification is being facilitated by the World Bank, which also wants to bring a high-level delegation from Morocco to India to discuss collaborations around the programme.

The country wants to develop a programme on the lines of Aadhaar for executing social welfare initiatives. Morocco envisions giving each citizen a unique identification number and developing an NPR covering its entire population.

In India, Aadhaar completed the enrolment of a billion people in May, about five-and-a-half years after the programme was launched.

The Indian government has made Aadhaar the pivot for delivering subsidies and other social welfare benefits directly to the people by transferring cash to their bank accounts, seeking to cut out middlemen and curb leakages. It is also a key element in India's move towards a cashless economy.

The government claims that through direct cash transfers to Aadhaar-linked bank accounts, it is saving Rs.15,000 crore a year in liquefied petroleum gas subsidy alone.

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Upasana Jain

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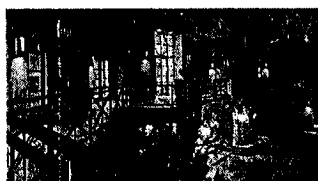
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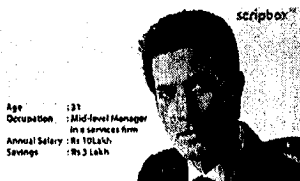
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Voltas rated 'Buy' by Citi, says best placed to tap AC growth opportunities

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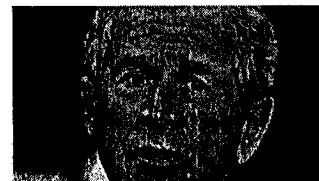
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Aadhaar-DBT turning into a big NDA success story

By: Santosh Tiwari | New Delhi | Updated: May 11, 2016 12:08 PM

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Not only Aadhaar enrollments crossed 100 crore mark last month and Aadhaar-based DBT has been provided a statutory backing, but the whole scheme is also progressing quite well, though the coverage is still limited. (Reuters)



FIRST TAKE
SANTOSH TIWARI

Disbursal of Rs 61,000 crore through direct benefit transfer (DBT) window in FY16 shows that the scheme is working well at the ground level. The government must ensure that Aadhaar-based DBT now spreads fast to other social sector schemes, both the Central and the State ones.

When the NDA government led by prime minister Narendra Modi took over in May 2014, many thought that the UPA's game-changer Aadhaar and direct benefit transfer

Voltas rated 'Buy' by Citi, says best placed to tap AC growth opportunities

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(UIDAI) chairman Nandan Nilekani and other top officials in the government, and practical approach of PM Modi, what has happened in the last two years is exactly the opposite.

Not only Aadhaar enrollments crossed 100 crore mark last month and Aadhaar-based DBT has been provided a statutory backing, but the whole scheme is also progressing quite well, though the coverage is still limited.

The results shared at a meeting called by the prime minister on Monday indicates that a solid launching pad is now ready for expanding Aadhaar-based DBT across all central and state social sector schemes in a big way.

In FY16, over Rs 61,000 crore was distributed to more than 30 crore beneficiaries through DBT. "This includes over Rs 25,000 crore in MGNREGS, and over Rs. 21,000 crore in PAHAL (for LPG)," says a government release.

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In terms of savings — over 1.6 crore bogus ration cards have been deleted, which saved about Rs 10,000 crore — 3.5 crore duplicate beneficiaries were weeded out in the PAHAL (DBT in LPG) scheme, resulting in savings of over Rs 14,000 crore in FY15 alone – and in MGNREGS, Rs 3000 crore (about 10%) savings have been estimated that year.

While these are good achievements considering poor implementation of DBT during the UPA regime after its launch in January 2013, the real challenge is to extend it to mainly food and fertilizer subsidy payments of over Rs 2 lakh crore in a year and also schemes like health insurance besides pensions and scholarships.

The results of Aadhaar experiments in these areas have been encouraging with estimated savings of Rs 2,346 crore in PDS across Andhra Pradesh, Telangana, Puducherry and Delhi – savings of Rs 276 crore across Andhra Pradesh, Telangana and Punjab in scholarship payments – and Rs 66 crore in Jharkhand, Chandigarh and Puducherry in pensions.

These experiences now need to be expanded across the country and the way things are moving, the UPA's DBT is emerging as a big success story of the NDA government.

PROMOTED STORIES

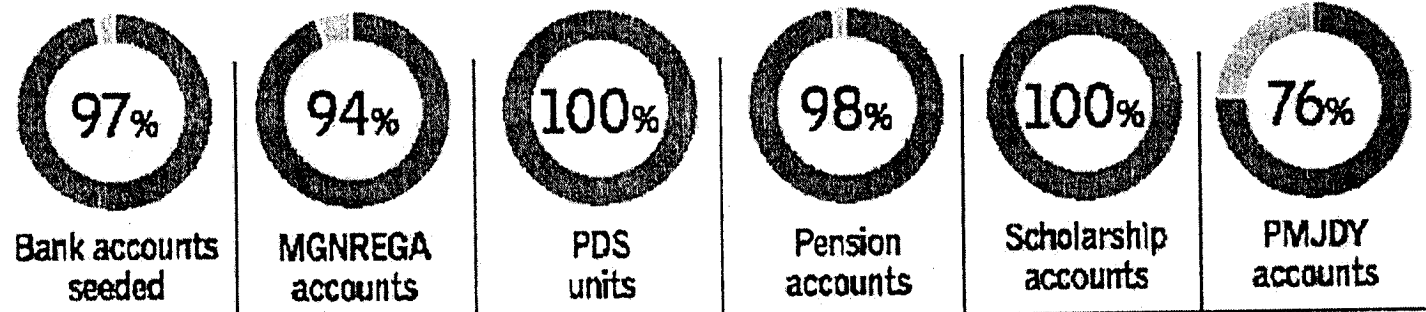
VIJAYAWADA

UIDAI all praise for A.P.'s success

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TRANSPARENCY MANTRA

AADHAAR LINKED WITH



○ 6 lakh pension accounts of bogus members or dead persons were eliminated saving Rs. 750 crore per year

○ 67 lakh bogus ration cards have been eliminated saving Rs. 1,100 to Rs. 1,200 crore a year

○ Rs. 634 crore transferred to 89 lakh wage seekers under MGNREGA last month



• AP issued Rs. 350.8 crore last month to 32.84 lakh pensioners

○ 17 lakh accounts of bogus LPG consumers have been eliminated reducing total number of LPG consumers from 1.14 crore to 96 lakh

Tharun Boda

VIJAYAWADA: JULY 05, 2016 00:00 IST
UPDATED: JULY 05, 2016 10:55 IST

Use of Aadhaar architecture in PDS and others saved hundreds of crores: official

The success story of Andhra Pradesh in developing Aadhaar enabled applications through its initiative e-Pragati has prompted the entire high level team of Unique Identification Authority of India come down to learn the implementation of various schemes at the ground level.

About 200 officials led by UIDAI Director-General A.B. Pandey came down to the city to organise the two-day National Workshop on the applications on Monday and Tuesday.

The officers of UIDAI formed into six teams and visited villages in Krishna and Guntur districts on Monday to study the implementation of Aadhaar-enabled PDS at fair price shops. While four teams visited villages in Krishna, two teams visited villages in Guntur district in the afternoon.

Earlier speaking at the workshop held in a hotel here, Mr. Pandey said the use of the Aadhaar architecture in PDS, MGNREGS schemes, distribution of fertilizers, crop insurance and others saving hundreds of crores by the State administration had left him surprised.

I.T. Advisor to Government of A.P. J. Satyanarayana said Aadhaar needed an ecosystem to make its applications successful and Andhra Pradesh through the e-Pragati had developed it.

He explained the project People Hub which aimed to provide all services. Schemes would cover all the five crore people and connect them with all the government departments cutting out redundancy.

Commissioner of Food & Civil Supplies department of A.P. G. Jayalakshmi gave details of the Aadhaar-enabled PDS. Later, speaking at a press conference UIDAI, Hyderabad region Dy. Director General M.V.S. Rami Reddy said A.P. stood tall among the few States that had achieved maximum results through Aadhaar and was able to save Rs. 1,100 crores and more in the PDS schemes alone.

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Tommy

37 Purposes for which SSN is used in USA (as of 2005) (Source: www.ssa.gov)	
Year	Description of the use of SSN authorized (count shown in BLUE numbers)
1935	required the issuance of an account number to each employee covered by the Social Security program (1) .
1943	<ul style="list-style-type: none"> All Federal components to use the SSN "exclusively" whenever the component found it advisable to set up a new identification system for individuals (2). The Social Security Board to cooperate with Federal uses of the number by issuing and verifying numbers for other Federal agencies
1961	The Civil Service Commission adopted the SSN as an official Federal employee identifier (3) .
1962	The Internal Revenue Service adopted the SSN as its official taxpayer identification number (4) .
1964	Treasury Department, via internal policy, required buyers of Series H savings bonds (5) to provide their SSNs.
1965	Medicare: It became necessary for most individuals age 65 and older to have an SSN (6) .
1966	The Veterans Administration began to use the SSN as the hospital admissions number (7) and for patient record keeping.
1969	The Department of Defense adopted the SSN in lieu of the military service number for identifying Armed Forces personnel.
1970	Bank Records and Foreign Transactions Act (P.L. 91-508) required all banks, savings and loan associations, credit unions and brokers/dealers in securities to obtain the SSNs of all of their customers (8) . Also, financial institutions were required to file a report with the IRS, including the SSN of the customer, for any transaction involving more than \$10,000 .
1976	To allow use by the States of the SSN in the administration of any tax (9), general public assistance (10), driver's license (11) or motor vehicle registration law (12) within their jurisdiction and to authorize the States to require individuals affected by such laws to furnish their SSNs to the States;
1976	amended section 6109 of the Internal Revenue Code to provide that the SSN be used as the tax identification number (TIN) for all tax purposes .
1977	Food Stamp Act of 1977 (P.L. 96-58) required disclosure of SSNs of all household members as a condition of eligibility for participation in the food stamp program (13) .
1981	Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) required the disclosure of the SSNs of all adult members in the household of children applying to the school lunch program (14) .
1981	Section 6 required any Federal, State or local government agency to furnish the name and SSN of prisoners convicted of a felony to the Secretary of HHS, to enforce suspension of disability benefits to certain imprisoned felons (15) .
1982	Debt Collection Act (P.L. 97-365) required that all applicants for loans under any Federal loan program (16) furnish their SSNs to the agency supplying the loan.
1983	The Interest and Dividend Tax Compliance Act (P.L. 98-67) requires SSNs for all interest-bearing accounts (17) and provides a penalty of \$50 for all individuals who fail to furnish a correct TIN (usually the SSN).
1984	Amended the Social Security Act to establish an income and eligibility verification system involving State agencies (18) administering the AFDC, Medicaid, unemployment compensation, the food stamp programs, and State programs under a plan approved under title I, X, XIV, or XVI of the Act. States were permitted to require the SSN as a condition of eligibility for benefits under any of these programs.
1984	Amended Section 6050I of the IRC to require that persons engaged in a trade or business (19) file a report (including SSNs) with the IRS for cash transactions over \$10,000.
1986	(P.L. 99-514) required individuals filing a tax return due after December 31, 1987, to include the taxpayer identification number--usually the SSN--of each dependent age 5 or older (20) .

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1986	Commercial Motor Vehicle Safety Act of 1986 (P.L. 99-750) authorized the Secretary of Transportation to require the use of the SSN on commercial motor vehicle operators' licenses (21) .
1986	Higher Education Amendments of 1986 (P.L. 99-498) required that student loan applicants submit their SSN as a condition of eligibility (22) .
1988	Housing and Community Development Act of 1987 (P.L. 100-242) authorized the Secretary of HUD to require disclosure of a person's SSN as a condition of eligibility for any HUD program (23) .
1988	beginning November 1, 1990, a State to obtain the SSNs of the parents when issuing a birth certificate (24) .
1988	Authorized a State and/or any blood donation facility to use SSNs to identify blood donors (25) .
1990	required an SSN for eligibility for benefits from the Department of Veterans Affairs (DVA) (26) .
1994	authorized the use of the SSN for jury selection (27) .
1994	authorized cross-matching of SSNs and Employer Identification Numbers maintained by the Department of Agriculture with other Federal agencies for the purpose of investigating both food stamp fraud and violations of other Federal laws (28) .
1994	authorized the use of the SSN by the Department of Labor in administration of Federal workers' compensation laws (29) .
1996	Section 317 provided that State child support enforcement procedures require the SSN of any applicant for a professional license (30), commercial driver's license (31), occupational license (32), or marriage license (33) be recorded on the application.
1996	The SSN of any person subject to a divorce decree, (34) support order, (35) or paternity determination or acknowledgement (36) would have to be placed in the pertinent records.
1996	SSNs are required on death certificates. (37)
1998	Identity Theft and Assumption Deterrence Act of 1998 (P.L. 105-318) defines " means of identification " to include name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, and employer or taxpayer identification number; and
2005	Prohibits Federal, State, and local governments from displaying SSNs , or any derivative thereof, on drivers' licenses, motor vehicle registrations, or other identification documents issued by State departments of motor vehicles.

Tracy